

Deputy Matthew Alexander

June 05, 2015

NANCY ROELL

v.

HAMILTON COUNTY, OHIO/BOARD OF COMMISSIONERS, et al.

1:14-CV-637



513.233.3000

877.233.4403

Fax: 513.233.2310

depo@elitereportingagency.com

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4
5
6 NANCY ROELL)
as executrix of the estate of)
7 GARY L. ROELL, SR.,)
8 Plaintiff,)
9 vs.) CASE NO.
10 HAMILTON COUNTY, OHIO/BOARD OF) 1:14-CV-637
COMMISSIONERS, et al.)
11 Defendants.)
12

13
14
15 Deposition of: DEPUTY MATTHEW ALEXANDER
16 Pursuant to: Notice
17 Date and Time: Friday, June 5, 2015
10:03 a.m.
18 Place: Hamilton County
Prosecutor's Office
19 230 East Ninth Street
Suite 4000
20 Cincinnati, Ohio 45202
21 Reporter: Wendy Haehnle
Notary Public - State
22 of Ohio
23 Videographer: John Bonavita
24
25

1 APPEARANCES OF COUNSEL:

2

3 For the plaintiff:

4 Alphonse A. Gerhardstein, Esq.
5 and
6 Jacklyn Gonzales-Martin, Esq.
7 of
8 Gerhardstein & Branch Co., LPA
9 432 Walnut Street
10 Suite 400
11 Cincinnati, Ohio 45202
12 513.621.9100, Ext. 13
13 agerhardstein@gbfirm.com
14 jgmartin@gbfirm.com
15
16
17
18
19
20
21
22
23
24
25

1 APPEARANCES OF COUNSEL:

2

3 For the defendants:

4 Jerome A. Kunkel, Esq.
5 and
6 Pamela J. Sears, Esq.
7 of
8 Office of Hamilton County
9 Prosecuting Attorney
10 230 East Ninth Street
11 Suite 4000
12 Cincinnati, Ohio 45202
13 513.946.3082
14 pam.sears@hcpros.org
15 jerry.kunkel@hcpros.org

16

and

17

18 Linda L. Woeber, Esq.
19 of
20 Montgomery Rennie & Jonson, LPA
21 36 East Seventh Street
22 Suite 2100
23 Cincinnati, Ohio 45202
24 513.768.5239
25 lwoeber@mrjlaw.com

16

17 Also Present:

18 Katie Cornelius
19 Nancy Roell
20 Deputy Joe Huddleston
21 Deputy Willy Dalid

22

23 - - -

24

25

26

27

1 I N D E X

2

3 DEPUTY MATTHEW ALEXANDER PAGE

4 EXAMINATION BY MR. GERHARDSTEIN 5
EXAMINATION BY MS. SEARS 107

5

6 FURTHER EXAMINATION
BY MR. GERHARDSTEIN 178

7 FURTHER EXAMINATION
BY MS. SEARS 184

8

9

10 EXHIBITS MARKED REFERENCED

11 DEPOSITION EXHIBIT 2 - 74
DEPOSITION EXHIBIT 5 - 60
12 DEPOSITION EXHIBIT 16 39 39
DEPOSITION EXHIBIT 17 61 61

13

DEPOSITION EXHIBIT A - 82
14 DEPOSITION EXHIBIT B - 114
DEPOSITION EXHIBIT C - 86
15 DEPOSITION EXHIBIT D - 115
DEPOSITION EXHIBIT J - 79
16 DEPOSITION EXHIBIT M 116 116
DEPOSITION EXHIBIT N 119 119

17

18

- - -

19

20

21

22

23

24

25

1 THE VIDEOGRAPHER: We are on the
2 record. The time is 10:03 a.m.

3 BY MR. GERHARDSTEIN:

4 Q. Good morning.

5 A. Good morning.

6 Q. State your name, please.

7 A. Matthew Alexander.

8 MR. GERHARDSTEIN: Oh, you want to
9 swear him in?

10 THE REPORTER: Yeah.

11 DEPUTY MATTHEW ALEXANDER

12 a defendant herein, having been duly sworn, was
13 examined and deposed as follows:

14 EXAMINATION

15 BY MR. GERHARDSTEIN:

16 Q. What's your highest level of education?

17 A. High school.

18 Q. Where did you graduate from?

19 A. Oak Hills.

20 Q. What year?

21 A. 2003.

22 Q. And what's your present job?

23 A. Deputy sheriff patrol officer.

24 Q. When did you start as a patrol
25 officer?

1 A. January 2nd, 2013.

2 Q. And did you have a field training
3 period?

4 A. I did.

5 Q. When was that over with?

6 A. That was over in March -- beginning of
7 April, beginning of April.

8 Q. Who were your field training officers?

9 A. It is now Sergeant Sovereign
10 (phonetic), my primary coach, Adam McMillan, and
11 Corporal Crider (phonetic).

12 Q. How do you spell that?

13 A. C-r-i-d-e-r.

14 Q. Did you start with the county in
15 corrections?

16 A. Yes.

17 Q. What year was that?

18 A. April 7th, 2005.

19 Q. So prior to August -- or prior to
20 August 13th, 2013, you had the corrections
21 training that your lawyer reviewed with
22 Deputy Huddleston yesterday, right?

23 A. Correct.

24 Q. And prior to August 13th, 2013, like
25 Huddleston, your training included interpersonal

1 communication, right?

2 A. Correct.

3 Q. And prior to August 13th, 2013, like
4 Huddleston, your training included interacting
5 with people in crisis situations and mental
6 health training, right?

7 A. Correct.

8 Q. And also like Huddleston, prior to
9 August 13th, 2013, you had Taser training, right?

10 A. Correct.

11 Q. And, like Huddleston, your Taser
12 training and your other training covered excited
13 delirium, right?

14 A. Yes.

15 Q. Okay. So on August 13th, 2013, you
16 encountered Mr. Gary Roell, right?

17 A. Correct.

18 Q. And Roell -- Mr. Roell appeared to be
19 having a mental health crisis when you
20 encountered him, right?

21 A. I did not know that at the time.

22 Q. During the course of your interaction
23 with him, you figured that out, right?

24 A. I still didn't know that.

25 Q. Well, during the course of your

1 interaction with Mr. Roell, you drew the
2 inference that he was having a mental health
3 problem?

4 A. It could have been a possibility.

5 Q. So -- and you thought that, right, that
6 it could have been a possibility?

7 A. Could have been a possibility.

8 Q. And you and Huddleston and Dalid used
9 force on Mr. Roell, right?

10 A. Correct.

11 Q. And he died following that use of
12 force, right?

13 A. Correct.

14 Q. And the coroner ruled that the cause of
15 death was excited delirium, right?

16 A. Correct.

17 Q. And you don't disagree with that
18 coroner determination for the cause of death, do
19 you?

20 A. I'm not an expert in that field; no
21 reason not to.

22 Q. Okay. Were you criminally prosecuted
23 for your acts involving Mr. Roell?

24 A. I was not.

25 Q. Were you disciplined --

1 A. I was not.

2 Q. -- by the Hamilton County Sheriff's
3 Office for the way you handled the incident
4 involving Mr. Roell?

5 A. I was not.

6 Q. Were you provided any retraining based
7 on the way you handled the incident involving
8 Mr. Roell?

9 A. I was not.

10 Q. Are you aware of any policy changes at
11 the Hamilton County Sheriff's Office as a result
12 of the events involving Mr. Roell?

13 A. I'm not sure.

14 Q. Did you follow the Hamilton County
15 Sheriff's Office use-of-force policy with respect
16 to your interaction with Mr. Roell?

17 A. Yes.

18 Q. Now, during your interaction with
19 Mr. Roell, you never tried to stop
20 Deputy Huddleston from using the Taser, right?

21 A. No.

22 Q. And on August 13th, 2013, is it your
23 view that Deputy Huddleston followed the Hamilton
24 County Sheriff's Office Taser policy and
25 procedure with respect to his interaction with

1 Mr. Roell?

2 A. Yes.

3 MS. SEARS: Objection as to the policy
4 and procedure.

5 There's policy, procedure, and
6 training. So I'm going to object to the
7 policy in question for purposes of the
8 excessive force claim.

9 BY MR. GERHARDSTEIN:

10 Q. You can answer.

11 A. Can you repeat the question? I'm
12 sorry.

13 MR. GERHARDSTEIN: (Indicating.)
14 (The record was read.)

15 A. Yes.

16 BY MR. GERHARDSTEIN:

17 Q. And on August 13th, 2013, did you and
18 Deputy Huddleston follow the Hamilton County
19 Sheriff's Office Taser training with respect to
20 your use of force on Mr. Roell?

21 MS. SEARS: Objection.

22 You can answer.

23 A. I never used a Taser.

24 BY MR. GERHARDSTEIN:

25 Q. Right. But you were assisting --

1 A. Right.

2 Q. -- Mr. Huddleston, right --

3 A. Correct.

4 Q. -- or Deputy Huddleston, right?

5 So was it your view that those actions
6 followed the Taser training?

7 A. Correct.

8 Q. On August 13th, 2013, did you follow
9 the Hamilton County Sheriff's Office policy and
10 custom regarding your encounter with -- with
11 Mr. Roell with respect to encountering people
12 with mental illness?

13 A. Yes.

14 Q. On August 13th, 2013, with respect to
15 your encounter with Mr. Roell, did you follow the
16 Hamilton County Sheriff's Office training with
17 respect to excited delirium?

18 MS. SEARS: Can I just -- because I
19 don't want to keep interrupting you.

20 Can I just impose a continuing
21 objection to --

22 MR. GERHARDSTEIN: Sure.

23 MS. SEARS: -- all questions regarding
24 policy -- custom, policy, and procedure for
25 the purposes of the excessive force claim,

1 and then I won't have to interrupt you each
2 time?

3 MR. GERHARDSTEIN: All right. Well,
4 that was training.

5 Could you read the question back,
6 please?

7 (The record was read.)

8 A. I believe so.

9 BY MR. GERHARDSTEIN:

10 Q. On August 13th, 2013, did you follow
11 the Hamilton County Sheriff's Office training
12 with respect to your restraint and cuffing of
13 Mr. Roell?

14 A. Yes.

15 Q. And did you follow the Hamilton County
16 Sheriff's Office policies with respect to your
17 restraint and cuffing of Mr. Roell?

18 A. Yes.

19 Q. So in your view, did you do anything
20 wrong with respect to your use of force on
21 Mr. Roell?

22 A. No.

23 MS. SEARS: Objection as to the
24 characterization of wrong.

25 You can answer the question.

1 A. No.

2 BY MR. GERHARDSTEIN:

3 Q. August 13th, 2013, what time did your
4 shift start?

5 It would have been the day before,
6 right?

7 A. It was 1900 the day before, on the
8 12th.

9 Q. Okay. And what time is that in --

10 A. 7:00 p.m.

11 Q. And that was your normal shift?

12 A. Correct.

13 Q. What -- did you have an assignment?

14 A. I ran the north Sycamore beat.

15 Q. And what's that mean, you ran that
16 beat? What's that mean?

17 A. That was my assignment area every day.
18 Every day when I came into work -- it was my
19 assigned area every day.

20 Q. Okay. And what was the initial
21 information you got with respect to the problem
22 at Barrington Court?

23 A. From what I can recall, it was a
24 neighbor trouble and somebody was breaking out
25 the windows.

1 Q. Did you learn anything else?

2 A. I don't believe so.

3 Q. Some neighbor trouble, did that mean a
4 neighbor was breaking out the windows?

5 A. I didn't know.

6 Q. Okay.

7 A. It just came out as a neighbor trouble.

8 Q. All right. And how did you learn
9 that?

10 A. From the dispatch.

11 Q. Did you talk to dispatch or did you
12 just hear it over the radio?

13 A. I heard it on the radio and I
14 acknowledged that I was en route.

15 Q. Okay. And then what happened?

16 A. Myself and Deputy Huddleston were on
17 the side of the highway helping Montgomery with a
18 DUI crash, rollover crash, helping with traffic
19 assistance until their unit showed up.

20 And then we -- as soon as we cleared that,
21 we got the dispatch. And then we went -- went --
22 went to the scene, showed up.

23 Q. And then as you got to the scene, where
24 did you park your cruiser?

25 A. I pulled right up to the front. My

<http://www.yeslaw.net/help>

1 driver's side door would be directly in front of
2 complainant's front door.

3 Q. Okay. And what did you see as you
4 approached the complainant's front door?

5 Did you see anything around the carport
6 or --

7 A. I did notice there was some landscaping
8 tore up. I didn't really pay much attention to
9 that, because I was looking for the address.

10 Q. Okay.

11 A. But I did notice there was some
12 landscaping -- just disarray.

13 Q. All right. Did you see any debris in
14 the carport, board game parts, anything like
15 that?

16 A. No, not that I remember.

17 Q. And when you pulled up in front of the
18 condos, what did you observe?

19 A. I observed -- I was looking for the
20 address. And I observed the -- the complainant
21 on her front porch waving us down, just panicked.

22 And she directed myself and
23 Deputy Huddleston to the back of the residence.

24 Q. And you also saw the next door wide
25 open and dark, right?

1 A. I did not.

2 Q. Did you see at the front of the house
3 debris with the door wide open and debris lying
4 on the sidewalk?

5 A. I don't recall that, no.

6 Q. Did you give an interview of your -- of
7 the events of this day before you left duty the
8 follow morning --

9 A. Yes, I did.

10 Q. -- or that morning?

11 A. Yes.

12 Q. And if you made statements during that
13 interview, would you trust those statements or
14 recollections that you have today?

15 MS. SEARS: Objection to the
16 characterize -- characterization of trust.

17 You can answer the question if you
18 understand it.

19 A. What do you mean trust?

20 BY MR. GERHARDSTEIN:

21 Q. Which would be more reliable, the ones
22 you made at the time or the ones you're making
23 today?

24 A. I'm not sure of that. I don't know;
25 probably the ones I made at the time.

1 Q. When you saw the complainant, you said
2 she was panicked.

3 What did she say to you and what did
4 you say to her?

5 A. I said -- I think I said -- from my
6 remembrance, I said, where is he?

7 And she -- she pointed us into the back
8 door, the back patio area, directed us back
9 there.

10 Q. Did you ask her any other questions?

11 A. I don't recall.

12 Q. Did she provide you with any additional
13 information about the suspect?

14 A. I don't recall.

15 Q. Did you learn prior to approaching the
16 back patio area whether there had been any prior
17 runs to these condos?

18 A. No, I did not.

19 Q. Before you moved in the direction that
20 she pointed you, what happened next?

21 A. We ran to the back of the patio area to
22 where Mr. Roell was.

23 Q. Did you have your Taser or gun out?

24 A. I did not, from my --

25 Q. And when you ran to the back of the

1 patio area -- describe the patio area.

2 A. It is a privacy fence. I think it's a
3 six-foot high privacy fence, enclosed by a gate
4 that encloses the back patio of the complainant's
5 back -- backyard.

6 Q. And as you entered -- as you came upon
7 the patio, the gate was open?

8 A. I don't recall.

9 Q. What happened next?

10 A. We made contact with Mr. Roell. And he
11 was, I remember, screaming no; all about water.

12 Myself and Deputy Huddleston both asked
13 to show hands, show us your hands.

14 He then immediately, within seconds,
15 you know, charged at us.

16 Q. Where was he when you first saw him?

17 A. He was up by the -- the broken
18 windows.

19 Q. Which way was he facing?

20 A. I believe he was facing the windows.

21 Q. What was he doing?

22 A. He was holding a hose and a flower pot,
23 and just screaming.

24 Q. Was he touching the unit at all?

25 A. I don't recall.

1 Q. How far from the windows was he?

2 A. Probably six inches. I don't know, a
3 foot.

4 Q. And the flower pot was a peat pot with
5 some plastic ribbing around it?

6 A. I just saw the flower pot. I don't
7 know if there was a ribbing around it.

8 Q. And at that time, what was he
9 wearing?

10 A. He was wearing a shirt and that's it;
11 naked from the waist down.

12 Q. And he was screaming no and screaming
13 about water?

14 A. Correct.

15 Q. And was that pretty much true
16 throughout your whole encounter with him, that he
17 was screaming about water and screaming no?

18 A. He was screaming no when we had given
19 him orders. He was -- he was not complying
20 whatsoever.

21 Q. And was he also continuing to scream
22 about water?

23 A. He screamed -- he said some things
24 about water throughout the incident.

25 Q. And those were not responsive to

1 anything you were talking about, right?

2 A. The water statement?

3 Q. Yeah.

4 A. Correct.

5 Q. And as far as you could tell, it didn't
6 make a lot of sense, did it?

7 A. I didn't understand why he was yelling
8 for water.

9 Q. Okay. Did you see that the window was
10 broken?

11 A. Yes.

12 Q. How many windows were broken?

13 A. I think there was just two on the side
14 of the patio door.

15 Q. And this was about 3:00 in the
16 morning?

17 A. Whatever time the dispatch was. I'm
18 not sure.

19 Q. It was very early in the morning,
20 right?

21 A. Right.

22 Q. Did you both start speaking to him
23 while he was still facing the window?

24 A. I remember telling him to give his
25 hands. I'm not too sure if Huddleston was.

1 Q. And -- and you made that statement to
2 give you -- to give us your hands while he was
3 still facing the window?

4 A. I don't recall exactly his positioning
5 when he was -- when I was talking to him or
6 yelling at him.

7 But when I showed up, he was facing the
8 window.

9 Q. Okay. But you spoke to him before he
10 ever acknowledged you, right?

11 A. Correct.

12 Q. Okay.

13 A. Correct.

14 Q. And how far away from you was he at
15 that point?

16 A. Probably 15 feet, 20 feet.

17 Q. What was the tone of voice that you
18 used as you drew his attention to you?

19 A. I was -- I was loud.

20 Q. So you were using your command
21 presence?

22 A. Correct.

23 Q. And you were giving him an order,
24 right?

25 A. Correct.

1 Q. And you wanted him to know that that
2 was a firm and a -- a strong order --

3 A. Correct.

4 Q. -- is that right?

5 So give me an example. Just try to say
6 it the way you said it to him right now.

7 A. Show us your hands, something along
8 those lines.

9 Q. Where were you located at the time you
10 made that command to him?

11 A. I was located -- I think it was
12 directly outside the patio door.

13 Q. How long did you make any observation
14 of him before you said, show us your hands?

15 A. I believe Deputy Huddleston asked him
16 what he was doing. And it was -- it was about
17 maybe five seconds.

18 Q. And what was his tone of voice?

19 A. He was -- he was pretty loud.

20 Q. At the time you observed this
21 individual -- how old was he, by the way?

22 A. I'm not sure.

23 Q. Was he a young man or an older --

24 A. He was an older man.

25 Q. At the time you observed this older man

1 with just a T-shirt on and naked from the waist
2 down, screaming statements about water and
3 holding this plant and hose, at that point, did
4 you draw any inference that he was having a
5 mental health problem?

6 A. I did not.

7 Q. Would you agree that those facts are
8 consistent with a person having a mental health
9 problem?

10 A. It could be that or consistent with
11 other things, as well.

12 Q. Would you agree that those facts are
13 consistent with a person who's got some sort
14 of -- of interference with his mental
15 functioning?

16 A. I would agree with that.

17 Q. So it could have been drugs, it could
18 have been --

19 A. Alcohol.

20 Q. -- alcohol, it could have been mental
21 illness, right?

22 A. Correct.

23 Q. So you -- and you drew an inference
24 that there was something off or bizarre about
25 him, right?

1 A. I drew an inference that something was
2 not right with him.

3 Q. Okay. Did you talk to Huddleston at
4 all about your plan for interacting with
5 Mr. Roell?

6 A. I did not.

7 Q. Now, you said he came at you; is that
8 right?

9 A. Correct.

10 Q. And as he came at you, he was walking
11 fast?

12 A. It was a pretty brisk walk.

13 Q. And he was still holding the hose and
14 the basket, right?

15 A. Correct.

16 Q. You didn't see any other weapons on
17 him, right?

18 A. I did not see anything, no.

19 Q. And as he was coming at you, what did
20 he say?

21 A. He just kept yelling no and -- and
22 walked right towards us in a very aggressive
23 manner.

24 Q. And when you say an aggressive manner,
25 what do you mean?

1 A. I mean, he -- he looked angry, very,
2 very agitated, the way he was talking, yelling.

3 Q. And while he was coming at you, were
4 both of you continuing to give him orders?

5 A. I don't recall.

6 Q. He -- at that point, he didn't throw
7 any punches at you, right?

8 A. No.

9 Q. And he was moving toward you, and he
10 was screaming no and something about water,
11 right?

12 A. When he was moving towards us, he was
13 just yelling no.

14 Q. Did you remain outside the gate?

15 A. Yes.

16 Q. And was Huddleston outside the gate?

17 A. I believe he was right next to me or
18 either a step or two in front or behind me.

19 Q. And at that point, was Dalid there?

20 A. I don't think Dalid showed up until we
21 actually put hands onto him.

22 Q. At any point, did Huddleston say, show
23 me your hands and come out?

24 A. I don't recall if he did or not.

25 Q. Did Huddleston tell him to drop the

1 items and get on the ground or you're going to be
2 tased?

3 A. I don't remember that part.

4 Q. Was there any warning as Mr. Roell was
5 approaching you that he was going to be tased?

6 A. I remember the -- the arcing. I
7 remember hearing that, when Deputy Huddleston did
8 the arc.

9 Q. And where was Mr. Roell when
10 Deputy Huddleston did the arc?

11 A. He was approaching us.

12 Q. So he was still on the patio and you
13 were outside the gate?

14 A. Yes.

15 Q. Do you agree that one of your goals was
16 to get Mr. Roell away from the patio?

17 A. I agree that my goal was to get him
18 under control.

19 Q. Were you trying to do that away from
20 the patio?

21 A. I just wanted to get him under
22 control.

23 Q. Right. But you didn't enter the patio,
24 right?

25 A. Correct.

1 Q. And so, as he approached, was the
2 statement made to Mr. Roell that, you don't want
3 to get tased, you should come out?

4 A. I don't recall that.

5 Q. So if there was a witness who said that
6 you were trying to get the guy out of the back
7 porch, and that the officer said, you don't want
8 to get tased, you know, come on out, would that
9 witness be incorrect?

10 A. I don't recall that, so I don't know.

11 Q. Both you and Alexander were giving
12 commands, right?

13 A. I am Alexander.

14 Q. I'm sorry.

15 Both you and Huddleston were giving --

16 A. I don't recall if Huddleston was or
17 not.

18 Q. And you continued to use your command
19 voice, right?

20 A. Correct.

21 Q. And your consistent command was that he
22 give you his hands, right?

23 A. Show us your hands, or something along
24 those lines, correct.

25 Q. So what did you want him to do when you

<http://www.yeslaw.net/help>

1 said, show us your hands?

2 A. I wanted him to comply.

3 Q. Well, you could see his hands, right?

4 A. Correct.

5 Q. You saw that he had a basket and a
6 hose. So what beyond that did you want him to do
7 to comply with the show-us-your-hands order?

8 A. Drop everything in his hands.

9 Q. Did you tell him to drop everything in
10 his hands?

11 A. I just -- I don't recall what I said.
12 It was something along the lines of, show your
13 hands.

14 But he was not complying with -- with
15 anything. He was coming at us.

16 Q. Did you tell him to stop?

17 A. Yes.

18 Q. And as he came closer to you, you would
19 agree that he never threw any punches or attacked
20 you, right? He was just moving toward you?

21 A. He was coming towards us. I don't know
22 what he was trying to do.

23 Q. Okay. And then --

24 A. Typically, when someone isn't listening
25 and they're approaching an officer when they're

1 telling them to stop or put your -- show us your
2 hands, they're -- they're coming to do something
3 to me, to harm me, maybe.

4 Q. So you grabbed him?

5 A. I did.

6 Q. And when -- and you grabbed him after
7 the arcing, right?

8 A. Correct.

9 Q. And when the Taser was arced, what was
10 his reaction?

11 A. I don't recall. I think -- I think he
12 hesitated or stopped or kind of flinched.

13 Q. And when the Taser was arced, was there
14 also a laser light shining on him?

15 A. Yes.

16 Q. And where on his body did that light --

17 A. I don't recall. It was on his front
18 side somewhere.

19 Q. And did he react to the light at all?

20 A. No. He kept coming at us; didn't
21 stop.

22 Q. Then what happened?

23 A. We then had to put our hands on him to
24 attempt to gain control of him outside the patio
25 area at this time.

1 And then he continued to struggle. And
2 during the struggle, I believe I remember
3 Huddleston yelling Taser.

4 And at that time, Deputy Dalid was on
5 scene, as well. And we got off him for a second
6 while the Taser got deployed, so then we could
7 gain control of him while the Taser was supposed
8 to be taking effect, which it never did.

9 Q. When you grabbed at him, you also
10 grabbed the plant, right?

11 A. I don't think so. I don't recall. I
12 don't recall.

13 I -- I think the plant went flying at
14 some point in time.

15 Q. And ended up in the ground?

16 A. Correct.

17 Q. So the -- the plant didn't strike you
18 at all, right?

19 A. It didn't strike me. I don't believe
20 so.

21 Q. And it didn't strike Huddleston, right?

22 A. I don't know.

23 Q. And when you grabbed at him, did he
24 fall down?

25 A. I believe he went to the ground, from

1 what I remember.

2 Q. And did he fall down because he was
3 also getting tangled up in the hose?

4 A. I think the hose stayed inside. I
5 don't think the hose ever came out of the patio
6 area.

7 Q. So did he, at some point, fall because
8 he was interfered with -- with -- by the hose?

9 A. I'm not sure. I think he fell because
10 he was interfered with by us attempting to gain
11 control of him.

12 Q. And when he fell -- was he tased before
13 he fell or after he fell?

14 A. I'm not sure when he fell. I don't
15 know. I believe -- he was on the ground prior to
16 the tasing, I believe. I'm not sure.

17 Q. And was he on the ground at the time he
18 was tased?

19 A. I'm not sure. I don't remember.

20 I remember seeing the -- whenever he
21 went back into the patio, the barbs were in the
22 back. I remember seeing the barbs coming out of
23 the back of his shirt.

24 But I don't remember where he was at
25 the exact time he was tased.

1 I remember getting off of him when
2 Deputy Huddleston yelled Taser --

3 Q. And when --

4 A. -- so I didn't get tased, too.

5 Q. And when you got off of him, after
6 hearing Deputy Huddleston say Taser, was he on
7 the ground?

8 A. I don't recall.

9 Q. When you were encountering him during
10 this period that he was tased and you got off of
11 him, this was outside the gate, right?

12 A. Correct.

13 Q. Had the gate closed?

14 A. I'm not sure.

15 Q. And there was a time, though, when he
16 got away from you and was inside the patio with
17 the gate closed and the three of you were outside
18 the patio on the other side of the gate?

19 A. When he went back inside, I believe the
20 gate did close back. I believe he closed it.

21 Q. And is that something he had to
22 physically pull, or did it just automatically
23 close?

24 A. I don't know. I'm not sure.

25 Q. And when he went back inside, did he

1 walk on his two feet, or did he crawl?

2 A. From what I remember, I think he
3 crawled.

4 Q. As you sit here today, do you recall
5 that he was tased while he was crawling?

6 A. I don't think he was. Because I
7 remember him crawling back in the patio after --
8 I remember seeing the barbs in his back --

9 Q. Okay.

10 A. -- on his shirt.

11 Q. And so how did the barbs get in his
12 back?

13 A. I don't know. I -- I jumped off of
14 him. And I don't know where the Taser was -- I
15 remember seeing them in the backside of him, the
16 barbs. They weren't connected. They were just
17 kind of hanging there.

18 Q. And when you say you jumped off of him,
19 did you jump off of him when he was standing or
20 when he was on the ground?

21 A. I don't remember. I just remember
22 getting off of him.

23 Q. So at that point, you had had the
24 encounter you just described, and he is on the
25 inside, having crawled back into the patio, and

1 the three officers are on the outside, on the
2 other side of the gate, right?

3 A. Correct.

4 Q. So at that point, he had been saying
5 things about water and no, right?

6 A. I don't remember if he was still
7 yelling then. I think he was yelling throughout
8 the entire incident.

9 Q. Okay. You think he was yelling?

10 A. I think he was, yes.

11 Q. And he was nude throughout the entire
12 incident from the waist down, right?

13 A. Right.

14 Q. And -- and you had had this encounter
15 with him. Did he seem to have a lot of strength?

16 A. He did.

17 Q. And he was combative?

18 A. He was combative.

19 Q. And when you touched him, was he wet?

20 A. He -- he was slippery.

21 Q. And was that consistent with being
22 sweaty?

23 A. Or from the water. I'm not sure.

24 Q. Was his skin warm?

25 A. I don't recall.

1 Q. Well, these symptoms that you've just
2 confirmed are all consistent with the symptoms of
3 excited delirium, right?

4 A. I guess so. They were symptoms, yeah.

5 Q. And as of August 13th, 2013, you were
6 familiar with excited delirium, right?

7 A. Correct.

8 Q. And you had been trained to know that
9 excited delirium was an -- was a medical
10 emergency, right?

11 A. Correct.

12 MS. SEARS: Objection.

13 Oh, well, go ahead and answer.

14 BY MR. GERHARDSTEIN:

15 Q. So as you stood on one side of the --
16 the gate and he was on the other side of the
17 gate, as far as you knew, he wasn't encountering
18 any other members of the public, right?

19 A. Well, the windows were broken out. So
20 he --

21 Q. Okay.

22 A. -- had access to the inside of the
23 house.

24 Q. He would have to go through the windows
25 to get there?

1 A. Or breaking in the window.

2 Q. And, at least, as of the time he was on
3 the other side of the gate, he wasn't destroying
4 any property at that moment, right?

5 A. Not to my knowledge.

6 Q. And you hadn't observed any weapons on
7 him, other than the hose that he had held at one
8 point --

9 A. Right.

10 Q. -- right?

11 And he hadn't actually used the hose as
12 a weapon, right?

13 A. Not at that time, no.

14 Q. Or at any time?

15 A. Not at any time, no.

16 Q. And -- so while you were on the other
17 side of the gate, did you say anything to the
18 other officers and did they say anything to you
19 before proceeding?

20 A. No.

21 Q. At that point, when you were on the
22 other side of the gate, did you call for EMS
23 services?

24 A. No.

25 Q. Would you agree that the Hamilton

1 County Sheriff's Office excited delirium training
2 states that when someone has the symptoms of
3 excited delirium, if practical, you should call
4 for EMS so that they're available promptly after
5 use of force, right?

6 MS. SEARS: Objection.

7 You can answer.

8 A. If practical, yes.

9 BY MR. GERHARDSTEIN:

10 Q. Before you opened that gate and then
11 proceeded to continue the engagement with him,
12 did you discuss any plan of action with the other
13 officers?

14 A. No.

15 Q. Now, when you did open the gate --
16 which one of you opened the gate by the way?

17 A. I'm not -- I'm not sure.

18 Q. Okay. When you did open the gate, what
19 happened?

20 A. We went back in. And I believe the
21 Taser cycle was still cycling the five seconds.

22 So we were attempting to go back in and
23 gain control of him again. And then there was
24 another struggle.

25 By that time, we were by the tree, the

1 mulch area in the backyard, directly in front of
2 the open patio -- or open gate door.

3 We struggled again. And at some point
4 in time, he actually punched me in the left side
5 of my face with a closed fist.

6 At some point in time, there was a
7 handcuff on him. I believe we had one handcuff
8 on him during the struggle before he punched me,
9 because the handcuff actually came around and
10 struck the side of my head.

11 Q. When he was over by the mulch and -- as
12 you enter the patio, you're talking about the
13 area just to the left as you go in, right?

14 A. Correct.

15 Q. Was he standing or on the ground?

16 A. I don't recall.

17 Q. And you say you struggled. What do you
18 mean by that?

19 A. We attempted to get his hands again and
20 gain control of him and get him in handcuffs.
21 And it was -- he was still combative and flailing
22 around and not complying.

23 Q. And it was your view at the time that
24 he didn't purposely punch you, but he was just
25 trying to swing at anything in particular, just

1 actively trying to get out, right?

2 MS. SEARS: Objection as to what his
3 view was.

4 You're --

5 BY MR. GERHARDSTEIN:

6 Q. You can answer.

7 MS. SEARS: -- telling him what his
8 view is?

9 BY MR. GERHARDSTEIN:

10 Q. You can answer.

11 MS. SEARS: If you understand the
12 question, you can answer.

13 A. It seemed there was intent to punch me,
14 because that was a closed fist.

15 MS. SEARS: Did you say 16, Wendy?

16 THE REPORTER: (Indicating.)

17 MS. SEARS: Thank you.

18 (Deposition Exhibit 16 was marked for
19 identification.)

20 BY MR. GERHARDSTEIN:

21 Q. I'm going to show you what's been
22 marked as Exhibit 16.

23 You were interviewed by video on the
24 morning of this altercation right?

25 A. Correct.

1 Q. And I'm going to direct your attention
2 to page 43 of the transcript of that interview.
3 And at line 8, the detective interviewing you --
4 who was the detective -- do you remember who the
5 people were interviewing you?

6 A. I remember Detective Todd (phonetic).

7 Q. Was there another one?

8 A. There was, but I don't remember who it
9 was.

10 Q. Okay. At line 8 he says, When you were
11 struggling with him, he was throwing -- besides
12 the one punch he hit you in the face, did he
13 throw any other punches?

14 And the answer is, He was flailing
15 everywhere around. I don't think he was trying
16 to swing at anything in particular. He was just
17 actively trying to get out.

18 Did I read that correctly?

19 A. You did.

20 Q. Did -- this punch that hit you in the
21 face, did that occur before the second tasing or
22 after?

23 A. I believe it was before.

24 Q. So was he in the grass and just kind of
25 launched up and hit you?

1 A. I believe we were over there by the
2 tree. I'm not sure if he was -- I don't remember
3 his exact location.

4 Q. And was he standing or on the ground?

5 A. I don't remember his exact
6 positioning.

7 Q. Okay. So you don't know if he was
8 standing or --

9 A. No.

10 Q. -- not?

11 A. I don't recall.

12 Q. Do you know if you were by the tree or
13 were you -- were you out in the patio area?

14 A. I believe I was in the mulch area --

15 Q. Okay. So --

16 A. -- by the tree area.

17 Q. So was he facing you?

18 A. He would have been, yes. He would have
19 been facing me.

20 I don't know if he was -- I don't know
21 if we were on the ground or not. I'm not sure.

22 Q. So you just don't recall if he was on
23 the ground at the time he punched you?

24 A. I don't.

25 Q. So you wouldn't know then if you were

<http://www.yclaw.net/help>

1 on the ground at the time he punched you, right?

2 A. I don't think I was. I'm not sure.

3 Q. At any point when he was out on the
4 other side of the gate or while he was inside the
5 patio, was he on his stomach?

6 A. At any point during the struggle?

7 Q. Yeah.

8 A. I'm not sure.

9 Q. When you got the cuff on him, did
10 you -- at that point, did you cuff him up, or was
11 he just having a cuff on each hand?

12 What was the situation?

13 A. From what I recall, we only had one
14 cuff on at the time he hit me. We were trying to
15 get both -- we were trying to get two sets of
16 handcuffs on him.

17 He was a bigger guy and he was
18 combative. We were just trying the best
19 possible -- best way possible to cuff him in the
20 front or wherever -- whichever way we could.

21 And then -- what was the rest of your
22 question?

23 Q. So at the -- did you get both cuffs on
24 him?

25 A. Eventually, I think we did, after, I

1 think, the second tasing --

2 Q. Okay.

3 A. -- the second barb tasing.

4 Q. And to go back to what you knew before
5 you ever started the encounter, take a look at
6 page 7 of Exhibit 16.

7 At the bottom of the page, the
8 detective interviewing you, at line 24, says, And
9 when you got the dispatch, it was a male breaking
10 windows and it was a known suspect of the
11 neighbor. So you and Paul 32 -- 9 Paul 32 were
12 the first two to arrive on the scene?

13 And your answer was yes.

14 Do you see that?

15 A. Yes.

16 Q. Does that refresh your recollection as
17 to --

18 A. I don't remember --

19 Q. -- whether the suspect was known to the
20 complainant?

21 A. I don't recall that part.

22 Q. And then also on page 5, at line 18 --
23 or line 14 -- it -- you're saying, I don't
24 remember the exact time I was dispatched to a
25 male breaking the windows, backyard, damaging

1 property.

2 He was currently on scene, and I think
3 it was the -- a name came out. I think it was
4 neighbor -- said it was the neighbor. His name
5 came out over the -- and then you're interrupted.

6 Does that refresh your recollection as
7 to whether you knew that the alleged perpetrator
8 was that neighbor of the complainant?

9 A. I don't remember that part. But I
10 guess I did.

11 Q. And then at page 9, at line 20, you're
12 describing your entry into the back. And you
13 say, I came around and saw the fence open.

14 Do you see that?

15 A. I do.

16 Q. Does that refresh your recollection as
17 to whether the fence was open when you first got
18 there?

19 A. I don't recall if the fence was open or
20 not.

21 Q. And at page 16, at line 11, you're
22 describing your initial encounter with Mr. Roell.

23 And you say, I think he did have that
24 plant in his hand until I grabbed it. I remember
25 seeing it on the ground after -- during the

1 struggle.

2 MS. SEARS: Can I object --

3 BY MR. GERHARDSTEIN:

4 Q. Does that refresh your recollection as
5 to whether you grabbed the plant?

6 MS. SEARS: Could I just offer an
7 objection?

8 And -- and I would like the -- the
9 deputy to read that entire page 16 before he
10 answers your question so he has the entire
11 context.

12 A. What line were you referring to? I'm
13 sorry.

14 BY MR. GERHARDSTEIN:

15 Q. Eleven through 13.

16 MS. SEARS: Would you read the entire
17 page, please --

18 THE WITNESS: Uh-huh.

19 MS. SEARS: -- before you answer the
20 question?

21 A. What's your question? I'm sorry.

22 BY MR. GERHARDSTEIN:

23 Q. Does that refresh your recollection as
24 to whether you grabbed the plant?

25 A. I don't remember grabbing the plant.

<http://www.yeslaw.net/help>

1 Q. I'm going to -- the other thing I want
2 to just review with you is page 24.

3 We were talking about that first
4 tasing. And at the bottom of 24, the detective
5 says, Let's go back one second. When you said
6 that, when he shot him the first time, where
7 did -- you say you saw the barbs. Where was he
8 struck at?

9 And the answer was, It was on the back
10 because he was crawling --

11 A. Okay.

12 Q. -- and I remember seeing the barbs, the
13 wire.

14 Does that refresh your recollection as
15 to whether he was tased while he was crawling?

16 A. I don't remember when he was tased.
17 But I do remember him crawling back in, like I
18 stated before.

19 Q. Oh, yeah. Take a look at page 45. And
20 I had asked you about whether you noticed the
21 condo next door to the complainant and the door
22 being open and debris inside the door.

23 And at page 45, you say, I remember
24 when I came up -- this is line 7 -- when I
25 initially pulled onto the scene, the neighbor's

1 front door was wide open. It was dark. There
2 was trash.

3 Does that refresh your recollection as
4 to whether you saw debris inside the neighbor's
5 door?

6 A. I don't recall that.

7 Q. So let's go back to the time when you
8 are all -- you've all reentered the -- all three
9 officers have reentered the patio, you've come
10 back through the gate, Mr. Roell is inside,
11 toward the mulch on the left; is that right?

12 A. Correct.

13 MS. SEARS: Objection as to reenter.

14 I don't think the testimony is that he
15 had been in the patio area.

16 BY MR. GERHARDSTEIN:

17 Q. And at that point, you tried to get him
18 cuffed, right?

19 A. Correct.

20 Q. How long did you struggle with him
21 before he was tased a second time?

22 A. I'm not sure.

23 Q. Up to that point, how much time had
24 elapsed?

25 A. I'm not sure.

1 Q. You'd agree that if the Taser barbs are
2 inserted into the subject and he's being
3 energized, you can cuff him without getting
4 shocked, right?

5 A. If both barbs are in him?

6 Q. Yeah.

7 A. Yes.

8 Q. So when you say you let Mr. Roell go
9 because you didn't want to get shocked, do you
10 mean you just didn't want to get hit by a barb?

11 A. Correct.

12 Q. Okay. Did any tasing continue after
13 Mr. Roell was cuffed?

14 A. No.

15 Q. Was all the tasing concluded by the
16 time he was cuffed in front?

17 A. Correct. Part of that question -- you
18 said when he was cuffed. You said altogether
19 cuffed. Both cuffs were connected and
20 everything.

21 Q. Well, that's good. Thank you.

22 Did any tasing continue after one of
23 the cuffs was on?

24 A. I don't remember if the one cuff was
25 on. I think it was, because it hit me. And I

1 think the tasing -- the second tasing was after
2 he hit me.

3 Q. All right. So -- but after he was
4 cuffed in front, then was there any tasing?

5 A. No.

6 Q. Where was he when he was cuffed in
7 front?

8 A. He was laying down in the patio area,
9 in the middle of the patio area.

10 Q. Now, when you were interviewed, you
11 never reported that you had told Mr. Roell to
12 stop as he was first approaching you and you were
13 outside the gate and he was coming from the
14 windows.

15 When did you recollect that you had
16 told him to stop?

17 A. I remember giving him verbal commands,
18 show us your hands, whatever the verbal
19 commands -- I'm not sure exactly what my verbal
20 commands were.

21 Q. Okay.

22 A. But it was to surrender.

23 Q. So you're not sure whether you told him
24 to stop or not?

25 A. I don't remember exactly -- what my

1 exact words were.

2 Q. Okay. And while you were attempting to
3 cuff him, were there periods when he was on his
4 stomach?

5 A. I believe he was on his side when he
6 was cuffed.

7 Q. Was he ever on his stomach?

8 A. I don't recall him being on his
9 stomach.

10 Q. At any point before he was cuffed and
11 shackled, did you call, or did any of the
12 officers call for EMS?

13 A. Yes.

14 Q. When was that?

15 A. It was after he was -- he was
16 controlled, he was cuffed.

17 Q. But before he was shackled?

18 A. I don't recall if it was before or
19 after the shackles. It was after we kind of got
20 somewhat control of him.

21 Q. Who went and got the shackles?

22 A. I did.

23 Q. Where did you get those?

24 A. Out of my vehicle.

25 Q. And at the time you went to your

1 vehicle to get the shackles, had EMS been called?

2 A. I don't recall.

3 Q. And then when you came back and applied
4 the shackles, did you witness anybody calling
5 EMS?

6 A. I witnessed -- I heard somebody call
7 for EMS. I'm not sure if it was before I came
8 back or -- you know, before I went to get my
9 shackles.

10 I think it was Deputy Dalid.

11 Q. While Mr. Roell was being restrained,
12 did anybody advise him of his rights?

13 A. I don't recall.

14 Q. And when Mr. Roell was cuffed in front
15 and shackled, what was the plan at that point, if
16 there was one?

17 A. Our plan was to get the squad there and
18 check him out.

19 Q. And then what did you anticipate
20 happening after the squad would come?

21 MS. SEARS: Objection as to whether he
22 anticipated --

23 BY MR. GERHARDSTEIN:

24 Q. I mean, what were the options?

25 A. I don't know what the squad would have

<http://www.yeslaw.net/help>

1 done. I'm not sure.

2 Q. So the squad would determine whether
3 you would arrest him or take him to the
4 hospital?

5 A. The squad would determine if there was
6 medical need to take him to the -- to the
7 emergency room.

8 Q. Even after he was in cuffs and
9 shackled, he was still making statements about
10 water, right?

11 A. From what I remember, he was yelling
12 water throughout the entire incident.

13 Q. And was there a time when he actually
14 fell asleep?

15 A. I don't remember that part.

16 Q. And if there are witnesses who saw him
17 on his stomach during the period before EMS came,
18 would you disagree with those? Or do you just
19 not recall?

20 A. From what I recall, he was on his side
21 the entire time.

22 Q. Did there come a time when
23 Corporal Steers arrived?

24 A. There did.

25 Q. And did he say when he arrived that

<http://www.yeslaw.net/help>

1 this situation looked like it could be an excited
2 delirium situation?

3 A. I didn't hear him say that. I don't
4 recall that.

5 Q. Deputy Huddleston said that the whole
6 department got training after this incident.

7 Did you hear him say that yesterday in
8 his deposition?

9 A. Yes.

10 Q. Do you know what he was talking
11 about?

12 A. I'm not sure.

13 Q. Was there any specific training
14 referencing the Roell incident after Mr. Roell
15 died?

16 A. I think we may have had like an excited
17 delirium -- just took a PowerPoint of protocol
18 or --

19 Q. And was that a -- like a refresher
20 course?

21 A. I believe it was. I'm not too -- I'm
22 not too sure.

23 Q. Did you take it?

24 A. I believe I did. I remember something
25 like that.

1 Q. And in any -- when you took that
2 course, after the Roell incident, did anyone say
3 that the Roell incident was an example of excited
4 delirium?

5 A. I don't recall that.

6 Q. Did anyone identify in that training
7 whether there were any errors in the treatment of
8 Mr. Roell?

9 A. Not to my knowledge.

10 Q. Were you present when Mr. Roell lost
11 his vital signs?

12 A. I was.

13 Q. Tell me about that.

14 A. I was -- I believe I was standing off
15 to the side when Corporal Steers showed up. I
16 believe they were checking for a pulse right when
17 he walked in. I think Deputy Dalid was.

18 And they realize he didn't have a
19 pulse. And then they started CPR.
20 Corporal Steers started CPR.

21 Q. Did you, yourself, observe any
22 difference in Mr. Roell prior to the discovery
23 that he had lost his vital signs?

24 A. He was -- when he was cuffed, he was
25 constantly up and down, fighting, combative, and

1 then he'd slow down; fighting, combative, then
2 he'd slow down.

3 So, I guess, during one of the times he
4 slowed down, he -- he lost his pulse.

5 So he was consistent to what he was
6 doing prior, when he didn't have his vital signs,
7 him going up and down.

8 He was down at that point.

9 Q. So as -- so he would have a period of
10 calmness and then getting agitated again --

11 A. Right.

12 Q. -- is that what you're saying?

13 A. Right.

14 Q. And this was during a period of
15 calmness that it was discovered --

16 A. Correct.

17 Q. -- that he had lost his vital signs?

18 A. Correct, yes.

19 Q. Were you off work at all after this
20 incident?

21 A. They gave me next day off. Then I had
22 my off days after that.

23 Q. Were you certified in the X2?

24 A. Yes.

25 Q. So when the X2 discharges cartridges,

1 did aphids sprinkle around?

2 A. Yes.

3 Q. Did you observe anyone collecting those
4 aphids?

5 A. I didn't.

6 Q. And did you see where they landed?

7 A. I did not.

8 Q. There is a policy requiring officers to
9 create a supplemental written report when there
10 is force used, right?

11 A. I'm not sure.

12 Q. Have you ever used force before
13 Mr. Roell?

14 A. When I was -- since I've been on
15 patrol?

16 Q. Yeah.

17 A. No.

18 Q. Would you agree that you did not
19 prepare any written summary of your activities
20 with respect to Mr. Roell?

21 A. I did not give a written statement,
22 no.

23 Q. Okay. And so the only statement you
24 ever provided was in the interview format with
25 the detectives, right?

1 A. Correct.

2 Q. Did you observe Deputy Huddleston ever
3 do any drive stuns?

4 A. I -- I do recall something along the
5 lines of doing a drive stun to his leg. But I
6 think it was once he crawled back in the patio,
7 after he initially got tased the first time.

8 Q. And did that have any effect?

9 A. None of the tasings had any effect
10 throughout the entire incident.

11 Q. The fact that a Taser -- I mean,
12 normally Tasers work, right?

13 A. Normally.

14 MS. SEARS: Objection as to --

15 BY MR. GERHARDSTEIN:

16 Q. And the fact --

17 MS. SEARS: -- characterization of
18 work.

19 I'm sorry. I thought you were
20 finished, Al. I apologize for interrupting.

21 BY MR. GERHARDSTEIN:

22 Q. The fact that a Taser has no effect on
23 the subject is unusual, right?

24 A. It's not normal.

25 Q. Okay. That also is consistent with

1 excited delirium symptoms, right?

2 MS. SEARS: Objection.

3 A. It could be anything. It could be
4 barbs didn't get connected. It could be drugs,
5 alcohol. It could be anything.

6 BY MR. GERHARDSTEIN:

7 Q. Okay. But it's also consistent with
8 excited delirium symptoms?

9 A. It could be one of the factors.

10 Q. Okay; one of the factors related to
11 excited delirium?

12 A. It could be one of the factors of why
13 the Taser didn't work.

14 Q. Okay; that he was experiencing
15 super-human strength --

16 A. It's something -- could have been the
17 barb didn't connect or some kind of drugs or some
18 kind of mental breakdown.

19 Q. Okay. And -- but my question was, one
20 of those factors could be that he was
21 experiencing excited delirium --

22 A. One of them could be --

23 Q. -- do you agree?

24 A. One of them could be.

25 Q. Okay. When Mr. Roell was the

1 subject -- whether his death was the subject of
2 the -- of an investigation, did you ever go back
3 and recreate the scene with anybody?

4 A. I did not.

5 Q. Did you ever go and take any pictures
6 or go back to the scene at all?

7 A. Never, no.

8 Q. You'd agree that, as a deputy, contact
9 with mentally ill citizens is foreseeable,
10 right?

11 A. Yes.

12 Q. And you'd agree that you must take the
13 symptoms of mental illness that you observe into
14 account when you develop a strategy for taking
15 mentally ill people into custody, right?

16 A. If the --

17 MS. SEARS: Objection.

18 You can answer, if you understand what
19 symptoms mean.

20 BY MR. GERHARDSTEIN:

21 Q. Is that correct?

22 A. If time allows it.

23 Q. Pardon?

24 A. If time allows it.

25 Q. You'd agree that on August 13th, 2013

1 Mr. Roell was demonstrating symptoms consistent
2 with mental illness, right?

3 MS. SEARS: Objection.

4 A. He was demonstrating symptoms that
5 something wasn't right. He was either on drugs,
6 alcohol, or mentally ill.

7 BY MR. GERHARDSTEIN:

8 Q. Take a look at Exhibit 5. Are you
9 familiar with this policy of the Hamilton County
10 Sheriff's Office on handling of handicapped
11 persons?

12 A. Yes.

13 Q. And would you agree that, from what you
14 observed on August 13th, 2013, Mr. Roell met the
15 definition of a person who was physically or
16 mentally impaired?

17 A. He showed the symptoms of it, yes.

18 Q. On that early morning when you
19 encountered him, did any of you contact the
20 mental illness hotline?

21 A. We did not.

22 Q. And on that early morning when you
23 encountered Mr. Roell, did you alert or seek the
24 assistance of any mobile crisis team?

25 A. We did not.

1 (Deposition Exhibit 17 was marked for
2 identification.)

3 BY MR. GERHARDSTEIN:

4 Q. I'm going to show you what's been
5 marked as Exhibit 17. This is -- this is a
6 recall, a summary of the dispatch records related
7 to the response to Barrington Court. Okay?

8 A. Okay.

9 Q. Have you ever seen that incident recall
10 before?

11 A. Yes.

12 Q. So maybe you could help me interpret
13 this.

14 On -- this records that on
15 August 13th, 2013 at 2:49 in the morning, we see,
16 Neighbor is Gary Roell, male white, wearing a
17 blue T-shirt, broke out window, tore down the
18 complainant's curtains and is damaging the
19 outside flower pots.

20 Did I read that correctly?

21 A. You did.

22 Q. And is that what you heard over
23 dispatch?

24 A. I don't recall hearing that. I think I
25 was going on scene shortly after, looking for the

1 address.

2 Q. So in your experience, is the summary
3 that's typed on here consistent with what's aired
4 over the radio?

5 A. Usually.

6 Q. And you did monitor this radio call,
7 right?

8 A. Correct.

9 Q. And at 2:48, above what I just read, I
10 see that it says -- what's C/C mean?

11 A. See complainant.

12 Q. Pardon?

13 A. See complaint.

14 Q. See complainant, reference trouble with
15 neighbor who broke out the complainant's window,
16 currently standing in the backyard.

17 Did I read that correctly?

18 A. Correct.

19 Q. So that would direct the officer to --
20 to check in with the complainant? Is that
21 what -- is that what that means?

22 A. Correct. That means the complainant
23 would like to see you at some point in time.

24 Q. Okay. All right. And at 2:48 there's
25 9S32, ER. Is that you, 9S32?

1 A. Correct.

2 Q. And ER means en route?

3 A. en route, correct.

4 Q. Okay. And then we get to the broadcast
5 that I read earlier, Neighbor is Gary Roell,
6 right?

7 A. Right.

8 Q. Or Royal is what they say there.

9 And, at least, the -- normally, that's
10 something you would have heard, as well as the
11 first broadcast about this incident, right?

12 A. They don't always broadcast everything
13 they put on the -- the MBC. But I don't remember
14 if that was broadcast or not. It may very well
15 have been.

16 Q. And then at 2:50 it says, Stat HL/9S32,
17 27.

18 A. 27 means I'm on scene.

19 Q. Okay. And what's Stat HL?

20 A. I'm not sure what that means.

21 Q. All right. But that's you, 9S32 --

22 A. Correct.

23 Q. -- right?

24 Then they seem to print your name under
25 it anyway, right?

1 A. Right.

2 Q. And then at 2:50, also, it says that
3 9P32 is 27.

4 Does that mean that Huddleston's also
5 at scene?

6 A. Correct. 27 means on scene.

7 Q. Okay.

8 A. He gave Corporal Steers a disregard.
9 That's why it says AV, which is available.

10 Q. Where is that?

11 A. Just above where it says, 9 Paul 32.

12 Q. Okay.

13 A. Where it says, M Steers available right
14 above it, AV.

15 Q. Oh, okay. And how do you see that as a
16 disregard?

17 A. Because that's when --

18 Q. Steers says he's available.

19 A. That's when Deputy Huddleston got on
20 the radio and said to give him a disregard, keep
21 him south.

22 Q. Okay. But we don't -- so you know that
23 just because you remember.

24 But you can't read that from the --

25 A. Well, he goes available, which means he

1 was -- he's not going anymore.

2 Q. Oh, I see.

3 A. The dispatch made him available.

4 Q. But then at 2:54 -- 9S33 is Steers,
5 right?

6 A. Correct.

7 Q. And it says ER.

8 A. That's when we called for officer
9 assistance.

10 Q. Okay. So at that point, he starts
11 making his way toward you, right?

12 A. Correct.

13 Q. And --

14 A. I'm assuming.

15 Q. Sewall also is ER at 2:54, right?

16 A. Correct.

17 Q. And Alderman is 4N32?

18 A. 4 north 32 in Montgomery and --

19 Q. Okay. And he's also coming?

20 A. Correct.

21 Q. So then we have at 2:55 one in custody,
22 request units continue --

23 A. Correct.

24 Q. Is that what that says?

25 A. Correct.

1 Q. And that means -- can you tell who made
2 that broadcast?

3 A. I believe I did.

4 Q. And at what point did you make that
5 broadcast?

6 A. Well, we have one in custody, means we
7 have one, at least, cuffed.

8 Q. Right. But when was that?

9 A. That was after he was cuffed back in
10 the patio.

11 Q. And after the shackles were on him?

12 A. I don't remember if shackles were on
13 him or not.

14 Q. So that means that you arrived at 2:50.
15 And you said he was in custody at 2:55, right?

16 A. That's when I broadcasted over the air,
17 correct.

18 Q. And from the moment you arrived to the
19 moment you started to engage with him by making
20 the commands, how much time had passed?

21 A. From the moment I arrived?

22 Q. (Nodding head.)

23 A. Maybe 30 -- 25, 30 seconds maybe.

24 Q. Okay. So the vast majority of this
25 time, almost four-and-a-half minutes, was spent

1 in the struggle with Mr. Roell, right?

2 MS. SEARS: Objection as to
3 four-and-a-half minutes.

4 A. I'm not sure what --

5 BY MR. GERHARDSTEIN:

6 Q. Well, you arrived at 2:50. You said
7 25 seconds to get back there and start your
8 encounter with Mr. Roell. And then that leaves
9 four-and-a-half minutes to --

10 A. That would be a rough estimate. I
11 mean, I don't know if these -- how close these
12 are to the next minute.

13 Q. Right. And, also, it's -- you don't
14 know where -- how long he had been in custody
15 when you said, one in custody, right?

16 A. Usually, I call it out when -- yeah.

17 Q. Usually, you call it out right away?

18 A. Typically.

19 Q. Okay.

20 MS. SEARS: Might need to speak a
21 little more clearly.

22 THE WITNESS: Sorry.

23 MS. SEARS: That's okay. Maybe speak
24 up a little bit. You have a low voice --

25 THE WITNESS: I know I do. I'm sorry.

<http://www.yeslaw.net/help>

1 MS. SEARS: -- and you're dropping at
2 the end. So maybe keep your chin and -- and
3 just kind of keep your voice a little -- a
4 little stronger. Okay?

5 THE WITNESS: Gotcha.

6 BY MR. GERHARDSTEIN:

7 Q. So in the police -- in your experience
8 as a -- as a law enforcement officer,
9 four-and-a-half minutes is a long time to be
10 struggling with somebody, isn't it?

11 MS. SEARS: Objection.

12 BY MR. GERHARDSTEIN:

13 Q. You can answer.

14 MS. SEARS: You can answer if you
15 understand the question -- a long time --

16 A. A struggle's a struggle, two minutes or
17 five minutes or whatever. It's still going to be
18 a long time.

19 BY MR. GERHARDSTEIN:

20 Q. I'm sorry. What --

21 A. It's -- no matter what a struggle is,
22 it's going to be a long time.

23 Q. And then EMS was requested two minutes
24 after that -- after you broadcasted that he was
25 in custody, right?

1 MS. SEARS: Well, it's the timeline on
2 here.

3 MR. GERHARDSTEIN: Hold on. Let me ask
4 the question --

5 MS. SEARS: I'm -- fine. But --

6 MR. GERHARDSTEIN: -- all right?

7 You don't need to argue --

8 MS. SEARS: No.

9 MR. GERHARDSTEIN: -- or give him
10 clues.

11 MS. SEARS: No. What I need to do
12 is --

13 MR. GERHARDSTEIN: That is what you're
14 doing. You're not making a record, you're
15 educating the witness.

16 MS. SEARS: You said --

17 MR. GERHARDSTEIN: And that is not
18 professional.

19 MS. SEARS: You said two minutes. And
20 then this -- this says --

21 MR. GERHARDSTEIN: Just stop.

22 MS. SEARS: -- a particular time.

23 No. I need to understand your
24 question, so I can --

25 MR. GERHARDSTEIN: No. Just stop.

1 MS. SEARS: -- appropriately make an
2 objection.

3 No. Please don't --

4 MR. GERHARDSTEIN: Let me repeat the
5 question again.

6 MS. SEARS: Please don't hold your hand
7 up at me and tell me to stop.

8 If I want to make a record --

9 MR. GERHARDSTEIN: Let me read the
10 question again.

11 MS. SEARS: No. Excuse me.

12 BY MR. GERHARDSTEIN:

13 Q. At 2:55, it says, One in custody. And
14 that was your broadcast; is that correct?

15 MS. SEARS: I'll make an --

16 BY MR. GERHARDSTEIN:

17 Q. Is that correct?

18 MS. SEARS: I'll make a record. I'll
19 make an objection. Okay?

20 This is not your --

21 MR. GERHARDSTEIN: Okay.

22 MS. SEARS: -- record. It's our
23 record.

24 And I'm entitled --

25 BY MR. GERHARDSTEIN:

1 Q. At 2:55, it says, One in custody; is
2 that correct, sir?

3 MS. SEARS: Let me just finish.

4 I will make a record when I need to
5 make a record, Mr. Gerhardstein.

6 And if you have a problem with my
7 comment, then you interpose an objection.

8 But don't hold your hand up at me
9 and -- and give me a stop sign, like I work
10 for you or like I -- like you're the boss of
11 me, frankly.

12 Now, if you understand that question,
13 please feel free to answer it.

14 BY MR. GERHARDSTEIN:

15 Q. At 2:55, it says, One in custody.

16 Do you see that, sir?

17 A. That's what it says on here, correct.

18 Q. All right. And that was your
19 broadcast, right?

20 A. I don't know -- like I said, I don't
21 know where in the 2:55 minute -- it's not showing
22 that.

23 Q. And at 2:57, there was a request EMS.
24 Do you see that?

25 A. I do see that.

1 Q. Okay. So the request for EMS came out
2 after he was in custody, somewhere in the
3 vicinity of two minutes later, right?

4 A. In the vicinity, correct.

5 Q. Okay. And then it says 9S32 advised to
6 slow units.

7 What's that mean?

8 That's you talking, right?

9 A. Right. That's me advising everybody
10 not to haul -- haul a man up there and get hurt;
11 slow down.

12 When I called for officer needs
13 assistance, we were still fighting him.

14 Q. Okay. And --

15 A. He was not restrained when I called for
16 more -- when I called for the additional units.

17 Q. And 9P31, requesting EMS, that's Dalid,
18 right?

19 A. Correct.

20 Q. What's ACB, to slow units?

21 A. All-county broadcast. It goes out to
22 every unit in the county.

23 Q. Because the officer needed assistance,
24 it goes out to every unit.

25 A. Correct.

1 Q. Okay. And then who broadcasts that CPR
2 was in progress at 3:04?

3 A. It says it was me, 9 Sam 32.

4 Q. And how long after CPR started did you
5 broadcast that it was in progress?

6 A. I believe I did it right away. It may
7 have been shortly after.

8 Q. Did you determine yourself whether the
9 CPR was making -- was having any positive
10 impact?

11 A. I do recall them saying they got a
12 pulse back a few times.

13 Q. So at least with respect to Mr. Roell,
14 you had had several minutes of struggle with him,
15 and then he lost his vital signs, right?

16 MS. SEARS: Object as to the word
17 several.

18 A. From what it says here, there was
19 approximately a coup -- a few minutes.

20 BY MR. GERHARDSTEIN:

21 Q. Okay.

22 A. Four or five minutes; three, four, five
23 minutes, could be anywhere in there.

24 MS. SEARS: Remember to keep your voice
25 up.

1 BY MR. GERHARDSTEIN:

2 Q. And then --

3 THE WITNESS: Sorry.

4 MS. SEARS: Do you need him to repeat
5 what he just said, Wendy?

6 THE REPORTER: (Indicating.)

7 MS. SEARS: Okay.

8 BY MR. GERHARDSTEIN:

9 Q. Take a look at Exhibit 2, page 4488.
10 And this is the 2012 excited delirium roll call
11 training for Hamilton County.

12 A. Okay.

13 Q. At page 4488, it states that, Usually,
14 within minutes of being restrained, the victim
15 loses all vital signs.

16 Did I read that correctly?

17 A. You did.

18 Q. And that's what happened here, right?

19 A. Correct.

20 Q. Your radios were on your person,
21 right?

22 A. Right.

23 Q. So in order to call for EMS while you
24 were back behind the condo, you needed to press a
25 button on the microphone on your uniform and

1 broadcast?

2 A. Right.

3 Q. And that didn't happen until after

4 Mr. Roell was cuffed and shackled, right?

5 A. I don't know if he was shackled.

6 Q. All right. But until you felt that he

7 was in custody?

8 A. That he was cuffed.

9 Q. So take a look at page 4491 of the
10 excited delirium roll call materials. And this
11 is titled, How to Respond to an Excited Delirium
12 Emergency, right?

13 A. Uh-huh.

14 Q. And the first bullet point is, If the
15 detail you're responding to sounds like it may
16 involve an excited delirium patient, ask dispatch
17 for EMS and have them staged nearby.

18 That did not happen here, correct?

19 A. It did not, because we weren't
20 dispatched to an excited delirium emergency.

21 Q. And the second bullet point says, If
22 the situation permits, have EMS on scene before
23 engaging the subject.

24 That did not happen here, right?

25 A. The situation did not permit.

<http://www.yeslaw.net/help>

1 Q. So are you saying you -- well, you say
2 the situation did not permit.

3 Let's go to the moment when he -- when
4 Mr. Roell has crawled back through the gate, is
5 inside the patio, and the three officers are
6 about to enter the gate and continue trying to
7 restrain him. Okay?

8 A. Okay.

9 Q. At that point, would you agree that you
10 had the opportunity to, at least, push the button
11 and call for EMS?

12 A. No.

13 Q. And at that point, did you call for
14 additional officers, or had you not done that
15 yet?

16 A. Not yet.

17 Q. At the moment you were on the other
18 side of the gate and Mr. Roell was on the patio,
19 you'd agree that you had had enough experience
20 with Mr. Roell to confirm his symptoms as
21 consistent with excited delirium, right?

22 MS. SEARS: Objection as form.

23 BY MR. GERHARDSTEIN:

24 Q. You can answer.

25 A. What was the question again? I'm

1 sorry.

2 MR. GERHARDSTEIN: (Indicating.)

3 (The record was read.)

4 A. Or drugs, alcohol. It's consistent
5 with -- could be anything.

6 BY MR. GERHARDSTEIN:

7 Q. Well, take a look at 4489.

8 A. Okay.

9 Q. And you had enough experience with
10 Mr. Roell to confirm most of these symptoms as
11 symptoms that you witnessed Mr. Roell exhibiting,
12 right?

13 A. He had some of the symptoms, correct.

14 Q. Okay. Did you say to either of your
15 brother officers that we have an excited delirium
16 situation here?

17 A. No.

18 Q. You -- you knew excited delirium is a
19 medical problem, right?

20 A. Correct.

21 Q. And, in fact, you knew that one of the
22 risks of excited delirium is that people lose
23 their vital signs after they are engaged in
24 this -- in any struggle so vigorously, right?

25 MS. SEARS: Objection.

1 Is this knew at the time of the
2 incident?

3 MR. GERHARDSTEIN: Yes.

4 MS. SEARS: Oh, knew at the time of the
5 incident.

6 BY MR. GERHARDSTEIN:

7 Q. Right?

8 MS. SEARS: Can -- do you understand
9 the question?

10 BY MR. GERHARDSTEIN:

11 Q. You can answer.

12 A. I don't understand. I'm sorry.

13 Q. Okay.

14 MR. GERHARDSTEIN: Just read it back.

15 (The record was read.)

16 A. We agree that he can lose his vital
17 signs.

18 BY MR. GERHARDSTEIN:

19 Q. Okay. So what steps did you take to
20 make sure that EMS would be available should he
21 lose his vital signs?

22 A. We called EMS when we had the
23 opportunity to. We were never given the
24 opportunity to.

25 Q. And that, again, is because you didn't

1 press the button and make that call before you
2 rushed back into the patio, right?

3 MS. SEARS: Objection.

4 Asked and answered --

5 BY MR. GERHARDSTEIN:

6 Q. Is that correct?

7 MS. SEARS: -- three times, now.

8 A. I've already answered that question.

9 BY MR. GERHARDSTEIN:

10 Q. Is that right?

11 A. I've already answered the question.

12 Q. Is that correct?

13 MS. SEARS: You can answer it again if
14 you understand the question.

15 A. What was the question again?

16 MR. GERHARDSTEIN: Read it back.

17 (The record was read.)

18 A. There was no time to.

19 BY MR. GERHARDSTEIN:

20 Q. I'm going to ask you to take a look at
21 a defense exhibit, J, which is the Taser
22 training.

23 No. I think it's in this pile.

24 MS. SEARS: Yeah. It might be in here.

25 MR. GERHARDSTEIN: J is the --

1 MS. SEARS: Yeah. Here it is.

2 It's just the top there.

3 BY MR. GERHARDSTEIN:

4 Q. And look at page 58.

5 You've seen these Taser materials
6 before, right?

7 A. Yes.

8 Q. And this particular slide suggests that
9 if you've used the Taser and the behavior of the
10 subject hasn't changed, you can reload a new
11 cartridge and reengage. That's the first bullet
12 point, right?

13 A. Okay.

14 Q. And when you're doing an X2, you don't
15 even have to do that, because you can just shoot
16 the second cartridge, right?

17 A. Correct.

18 Q. And Deputy Huddleston actually did
19 shoot the second cartridge, right?

20 A. Correct.

21 Q. And then this also says you can keep an
22 expended cartridge in place and apply a drive
23 stun follow-up.

24 And Deputy Huddleston actually tried
25 that one, too?

1 A. I believe.

2 Q. Because there's a prong inserted into
3 Mr. Roell, and he did a drive stun to the back of
4 the leg in order to attempt to complete the
5 circuit, right?

6 A. We thought there was a prong. I guess
7 he thought there was.

8 Q. Okay. But you witnessed him try to do
9 that, right?

10 A. Correct.

11 Q. And then the third bullet point is that
12 you can apply the force options or other
13 alternatives or disengage, right?

14 A. Correct.

15 Q. And at -- at no point in this encounter
16 with Mr. Roell did you disengage, right?

17 A. We did not.

18 Q. And the --

19 A. We disengaged once he was in -- in
20 control.

21 Q. Once you had him in custody?

22 A. Right.

23 Q. But you chose not to disengage and
24 formulate a different plan, that would use less
25 force on him, right?

1 MS. SEARS: Objection to less force.

2 BY MR. GERHARDSTEIN:

3 Q. Is that right?

4 A. We did not disengage.

5 Q. So take a look at Exhibit A within the
6 defense materials.

7 MS. SEARS: I think it's right here.

8 MR. GERHARDSTEIN: Yeah.

9 THE WITNESS: Is that my water?

10 MS. SEARS: Oh, yes. That is your
11 water. I'm sorry. Pardon me. I'm sorry.

12 BY MR. GERHARDSTEIN:

13 Q. And look at page 4, dash, 1, dash, 62.

14 Now, these materials are the
15 interpersonal communication training materials
16 that you received in connection with your
17 corrections training, right?

18 A. Correct.

19 Q. And these are the types of materials
20 that would refer to and utilize throughout your
21 work in corrections and on the road, right?

22 A. Correct.

23 Q. And one of the things it suggests that
24 you should do when you observe somebody who is
25 acting unusually is that you look at his

1 behavior, his appearance, and the environment,
2 right?

3 A. Where are you reading that again? I'm
4 sorry.

5 Q. 4, dash, 1, dash, 62. It's the
6 italicized words under Environment.

7 You look at his behavior --

8 A. Correct. Okay. I see what you're
9 saying. I gotcha.

10 Q. -- and his appearance, his environment,
11 right?

12 A. Right.

13 Q. And, of course, in this situation his
14 behavior was bizarre, right?

15 A. He was yelling and screaming, correct.

16 Q. And his appearance was --

17 A. Nude.

18 Q. -- nude from the waist down, which is
19 unusual, right?

20 A. It's not normal.

21 Q. And the environment was a closed patio
22 with a privacy fence around it and a wall with
23 the windows as the fourth wall, right?

24 A. And the windows were broken out, yes.

25 Q. So when you made these observations and

1 you set out to draw the inferences that are
2 called for at the next -- as the next step in
3 developing a plan of interpersonal communication,
4 the inference you drew was that he was confused
5 or disoriented, right?

6 A. I didn't --

7 MS. SEARS: Are you telling him that's
8 the inference, or are you asking him if
9 that's the inference?

10 BY MR. GERHARDSTEIN:

11 Q. Is that right?

12 A. Are you asking me?

13 MR. GERHARDSTEIN: Read the question
14 back.

15 (The record was read.)

16 A. The inference I drew was he was out of
17 control.

18 BY MR. GERHARDSTEIN:

19 Q. And out of control is consistent with
20 being disoriented and confused, right?

21 A. That's one of them.

22 Q. Okay. At any point, did you respond to
23 his statements about water?

24 A. No. There was no -- there was no
25 opportunity to. There was no opportunity to.

1 I'm sorry.

2 Q. Well --

3 MS. SEARS: I'll tell you what, why
4 don't --

5 BY MR. GERHARDSTEIN:

6 Q. When you heard his statements --

7 MS. SEARS: I'm sorry -- switch your
8 chair, so you're facing Mr. Gerhardstein and
9 you're facing Wendy, the court reporter, and
10 then when you drop your chin down, I think
11 Wendy might still be able to pick up what
12 you're saying. Okay? Because that might
13 help.

14 I'm sorry, Al.

15 BY MR. GERHARDSTEIN:

16 Q. You -- you heard statements about water
17 on and off through the whole encounter with him,
18 right?

19 MS. SEARS: Objection.

20 Asked and answered.

21 A. Yes.

22 BY MR. GERHARDSTEIN:

23 Q. So when you say there was no
24 opportunity to respond, you certainly had time
25 to, right?

1 A. We did not.

2 Q. Well, you chose not to use -- you chose
3 not to make any statements responsive to his
4 statements about water while you were struggling
5 with him --

6 MS. SEARS: Objection.

7 BY MR. GERHARDSTEIN:

8 Q. -- is that fair?

9 MS. SEARS: Objection.

10 Argumentative.

11 A. My concern when struggling with him was
12 getting him under control.

13 BY MR. GERHARDSTEIN:

14 Q. And you didn't choose to use any of the
15 techniques that you learned in terms of
16 interpersonal communication and crisis management
17 while you were trying to get him under control;
18 is that fair?

19 MS. SEARS: Objection.

20 Argumentative.

21 A. Again, there was no time. He -- he --
22 he came right at us, not listening to anything we
23 were saying while he was coming at us.

24 BY MR. GERHARDSTEIN:

25 Q. Take a look Exhibit C.

<http://www.rylaw.net/help>

1 MS. SEARS: Let's put this one back in
2 here -- A back in here so it doesn't get all
3 messed up for Wendy. Okay. I'll take it.
4 You go ahead.

5 Was it C; is that right, C?

6 MR. GERHARDSTEIN: Yeah.

7 BY MR. GERHARDSTEIN:

8 Q. 3, dash, 2, dash 70, the bullet point
9 in the middle of the slide titled, Interacting
10 with the Mentally Ill says, Use persuasion rather
11 than force whenever possible.

12 Did I read that correctly?

13 A. 3, dash, 2, dash, 7?

14 Q. 7.

15 A. 7.

16 Q. Sorry.

17 Did I read that correctly?

18 A. Which one are you reading? I'm sorry.

19 Q. Use persuasion rather than force
20 whenever possible.

21 A. You did read that correctly.

22 Q. Did you use persuasion with
23 Gary Roell?

24 A. It also says here, Make the scene safe.
25 And the scene was not safe.

1 Q. And that's -- why do you say the scene
2 was not safe?

3 A. Because he was out of control.

4 Q. But one way to help a mentally ill
5 person get in control is using persuasion rather
6 than force, right?

7 A. Didn't know if he was mentally ill at
8 the time.

9 Q. Well, you had lots of symptoms that
10 suggested that, right?

11 A. Suggested other things, too.

12 Q. Well, but even if his mental incapacity
13 was due to drugs or alcohol, there might be other
14 techniques, rather than force, that would be
15 effective, right?

16 A. Our --

17 MS. SEARS: Objection.

18 You can answer.

19 A. Make the scene safe and get him under
20 control.

21 BY MR. GERHARDSTEIN:

22 Q. Would you agree that while you were
23 interacting with Mr. Roell, you and Huddleston
24 were giving him commands?

25 A. I gave a command. I don't remember if

1 Huddleston was or not.

2 Q. So there was no coordination as to
3 whether -- designating one of you to be the
4 speaker to him, right?

5 A. Not to my knowledge, no.

6 Q. Would you agree that Gary Roell seemed
7 overwhelmed?

8 A. I -- I'm not sure.

9 Q. Would you agree that you were not
10 having a rational discussion with him?

11 A. With Mr. Roell?

12 Q. Right.

13 A. I would agree he was not complying with
14 anything we were asking him to do.

15 Q. And his response -- and his statements
16 were not related to anything you were asking him?

17 A. Well, he was stating no, which --

18 Q. And he was stating --

19 A. The water was kind of odd.

20 Q. Okay.

21 A. But the no was in relation to what we
22 were asking him to do.

23 Q. Well, he said no throughout, right?

24 A. Right. Well, so --

25 Q. So you didn't know if no related to not

1 having any water or not doing what you asked,
2 right?

3 A. Or not complying --

4 Q. Right.

5 A. -- or surrendering.

6 Q. So you don't know what he -- what he
7 was talking about, right?

8 A. Right.

9 Q. And you'd agree that you weren't using
10 a calm voice or trying to slow the pace down,
11 right?

12 A. I was yelling because he was yelling --

13 Q. Okay.

14 A. -- so he could hear me.

15 Q. Would it have been helpful to you if
16 you had information about prior runs to
17 Mr. Roell's residence involving his need for
18 mental health services --

19 MS. SEARS: Objection as to --

20 BY MR. GERHARDSTEIN:

21 Q. Would that have been helpful?

22 A. I mean, regardless, we had to get him
23 in control.

24 Q. Yeah. My question was, would it have
25 been helpful to know what the experience of prior

1 runs had shown.

2 A. No.

3 Q. So if other officers had been able to
4 come and talk with him in a way that calmed him
5 down, you wouldn't want to know that?

6 MS. SEARS: Objection.

7 Argumentative.

8 A. Would I want to know if other officers
9 could talk him down?

10 BY MR. GERHARDSTEIN:

11 Q. Yeah.

12 A. When we showed up to the scene, he was
13 out of control. There was no calming him down.
14 He immediately came after us.

15 Q. Well, he came at you, right?

16 MS. SEARS: Objection.

17 He answered the question.

18 BY MR. GERHARDSTEIN:

19 Q. Right?

20 A. He came after --

21 MS. SEARS: Objection.

22 Argumentative.

23 BY MR. GERHARDSTEIN:

24 Q. After your interaction with Mr. Roell,
25 have you used any force on any suspects?

1 A. No.

2 Q. And while you were in corrections, did
3 you use any force that was reported as a use of
4 force on inmates?

5 A. I used -- I was down there
6 seven-and-a-half years. There's been times.

7 Q. What was the most serious use of force
8 incident while you were in corrections?

9 A. Most of them were from just the CERT
10 team call-outs.

11 I remember just one where the inmate
12 wouldn't go into a cell, and I would escort him
13 into a cell and he ended up fighting me. But
14 that was very minor. Nothing happened.

15 He just got pushed into the cell; and
16 closed the door.

17 My use of force downtown, very
18 minimal.

19 Q. You said earlier that encounters with
20 mentally ill citizens are foreseeable for you as
21 a law enforcement officer, right?

22 A. Correct.

23 Q. And you'd also agree then that,
24 pursuant to your Taser training and your county
25 training, that encounters with persons

1 experiencing excited delirium are also
2 foreseeable, right?

3 MS. SEARS: Objection.

4 A. Not necessarily, not foreseeable. It's
5 a possibility.

6 BY MR. GERHARDSTEIN:

7 Q. So it -- so -- and that's why you're
8 trained for it, because it's -- because it is a
9 possibility that could happen, right?

10 A. Correct.

11 THE WITNESS: I need to use the
12 restroom.

13 MS. SEARS: Are you asking -- did you
14 want to break to go to the restroom?

15 THE WITNESS: Well, he just said we had
16 ten minutes left in the tape.

17 MS. SEARS: Yeah. So do you want to
18 wait to go to the restroom for ten minutes?

19 THE WITNESS: That's fine.

20 MS. SEARS: Is that okay?

21 THE WITNESS: Yeah.

22 MS. SEARS: You sure?

23 THE WITNESS: Uh-huh.

24 MS. SEARS: All right.

25 MR. GERHARDSTEIN: Let's take a break.

<http://www.yeslaw.net/help>

1 MS. SEARS: Oh, okay.

2 MR. GERHARDSTEIN: And we'll see where
3 we're at.

4 MS. SEARS: All right.

5 THE VIDEOGRAPHER: We are off the
6 record. The time is 11:44 a.m.

7 (Off the record.)

8 THE VIDEOGRAPHER: We are on the
9 record. The time is 12:02 p.m.

10 BY MR. GERHARDSTEIN:

11 Q. What's your age?

12 A. Twenty-nine.

13 Q. Are you married?

14 A. Yes.

15 Q. Any kids?

16 A. Four.

17 Q. Have you sued anyone or been sued?

18 A. I was involved in a yellow --
19 Cincinnati yellow cab lawsuit.

20 Q. What's the -- just give me the --

21 A. It was an automobile accident. I was
22 injured; and medical bills. So I --

23 Q. So you sued a cab company --

24 A. Correct.

25 Q. -- for your injuries?

1 Is that over with?

2 A. Yes.

3 Q. Have you ever filed for bankruptcy?

4 A. No.

5 Q. Have you taken any medications today?

6 A. No.

7 Q. How tall are you?

8 A. Five, ten.

9 Q. And how much do you weigh?

10 A. About 195.

11 Q. And what did you do to prepare for the
12 deposition?

13 A. Just met with my attorneys.

14 Q. And I don't want to know what you said
15 to them and what they said to you.

16 But what did you look at?

17 A. I reviewed my statement and the -- and
18 the video statement, the Taser policy, and the
19 use-of-force policy.

20 Q. Anything else?

21 A. (Shaking head.)

22 Q. And you attended yesterday's
23 deposition, I guess?

24 A. Yeah.

25 Q. Prior to August 13th, 2013, had you

1 ever discharged a firearm at a suspect?

2 A. No.

3 Q. And had you ever discharged a Taser at
4 a suspect?

5 A. No.

6 Q. And since 20 -- August 13th, 2013, have
7 you discharged a Taser at a suspect?

8 A. No.

9 Q. Since you've been on the road, have
10 you -- what's the worst injury a suspect has
11 received in connection --

12 A. In my --

13 Q. -- with any use of force you've engaged
14 in?

15 A. I've never been involved in use of
16 force, other than this.

17 Q. Have you been disciplined at all since
18 you've worked for the Hamilton County Sheriff's
19 Office?

20 A. Even in corrections?

21 Q. Yeah.

22 A. Yes.

23 Q. What discipline?

24 MS. SEARS: Objection.

25 You can answer.

1 A. I got a cell phone write-up, a DVD
2 player write-up -- in the jail, this is in the
3 jail -- missed briefing, missed my agility run.

4 BY MR. GERHARDSTEIN:

5 Q. Anything else?

6 A. I think that's it.

7 Q. And did any of these result in
8 suspensions?

9 A. I received a three-day suspension for
10 the briefing. I believe it was three days.

11 Q. Have you ever received any discipline
12 since you've been on the road patrol?

13 A. I got a 2 GIG cards, G-I-G -- they're
14 general infraction -- one for misplacing a cell
15 phone on the hood of my car, and I didn't know it
16 was there when I was handling a suspect, and it
17 got damaged; and then wrecking a cruiser.

18 Q. What happened on the cruiser?

19 A. I was doing patrol in a business area,
20 and then I hit a light pole.

21 Q. So do you know, is your discipline
22 captured in some file other than your personnel
23 file?

24 A. I don't believe so.

25 Q. Because that discipline on the road

1 patrol doesn't show up in your personnel file.

2 A. I believe it goes in there.

3 Q. Okay.

4 A. My evaluation I just received, it was
5 on there.

6 Q. Yeah. The evaluations are in there.

7 A. My GIG cards are on that one.

8 Q. When were you certified with the X2?

9 A. 2012 -- 2013. I'm sorry -- when I came
10 onto the road patrol, January 2013.

11 Q. And who was your instructor?

12 A. I think it was Lee Edwards.

13 Q. When were you certified in the X26?

14 A. 2000 -- I want to say 2010, 2011.

15 Q. And who was your instructor?

16 A. I believe it was Lee Edwards again.

17 Q. Okay. Since you have worked for the
18 sheriff's office, did you ever work in -- in the
19 capacity of somebody who executed warrants for
20 the probate court?

21 A. No.

22 Q. Did you ever do any pink-slipping of
23 suspects?

24 A. I've pink-slipped people before.

25 Q. Tell me about that.

1 A. If they're suicidal or they're -- you
2 know, can't control -- can't take care of
3 themselves, overdosed, tried taking pills or
4 something.

5 Q. How many times has that happened?

6 A. I don't know, less than ten.

7 Q. Give me a -- you don't have to use
8 names. Just give me an example of -- like one of
9 the more recent cases that you've had where you
10 you've pink-slipped somebody.

11 A. Got a call for -- I think it was
12 brother and -- husband and wife. The husband was
13 feeling very suicidal and was unable to care for
14 himself. His wife was concerned.

15 Q. What did you do?

16 A. Talked to him. And he did confirm that
17 he was suicidal, and he needed to talk to
18 somebody.

19 So we took him down to Deaconess.

20 Q. And he cooperated?

21 A. Uh-huh.

22 Q. And when you went to Deaconess -- is
23 that where University Hospital has their
24 psychiatric emergency service?

25 A. It's right next to -- I think, it's

1 Taft Middle School. It's a branch off of them.

2 Q. But that's part of the University
3 Hospital system, right?

4 A. I -- I believe so.

5 Q. And then once -- so in that situation,
6 he didn't resist at all, right?

7 A. No.

8 Q. Did you have any situations where you
9 pinked-slipped somebody who was not cooperating?

10 A. Not to my recollection, no.

11 Q. And in those situations where you've
12 pink-slipped people -- and by pink-slip we mean
13 you're using your authority as a law enforcement
14 officer under Ohio law to have an involuntary
15 review by a health care professional of a
16 person's mental status, right?

17 A. Correct.

18 Q. And when you have approached people
19 with that in mind, you have used your
20 interpersonal communication skills to gain their
21 cooperation, right?

22 A. Most of them have been pretty
23 cooperative off the get-go.

24 Q. Well, they were cooperative, but you
25 also maintained a calm, reassuring manner, right?

1 A. Correct, because they were
2 cooperative.

3 Q. When you worked in corrections, did you
4 have encounters with people who were delusional
5 or out of control because of a mental disturbance
6 while you were responsible for supervising them
7 in the -- in the pods?

8 A. I have.

9 Q. And with those individuals, have you
10 sought the assistance of the medical staff in the
11 course of your work with such inmates?

12 A. I have in the past, correct.

13 Q. Give me an example of a situation where
14 you worked in tandem with the medical staff to
15 help secure the safety of an inmate who was
16 delusional or acting out.

17 A. Typically, when that happens, they put
18 them in a restraint chair. And then the medical
19 staff and the psych staff talks to them in the
20 restraint chair.

21 Q. And when they are placed in the
22 restraint chair, the medical staff interacts with
23 them promptly afterwards, right?

24 A. Typically, yes.

25 Q. And when they're placed in the

1 restraint chair, medical staff is on notice that
2 that inmate's going to be placed in the restraint
3 chair, right?

4 A. It's usually -- comes from them or the
5 psychiatrist.

6 Q. Did you have a cell phone on
7 August 13th, 2013?

8 A. I did.

9 Q. And did you use it at all in connection
10 with any calls about your involvement with
11 Mr. Roell?

12 A. I called my wife.

13 Q. Anybody else?

14 A. That's it.

15 Q. Let's go off the record, and you can
16 just give me the cell phone number and the
17 service provider off the record.

18 THE VIDEOGRAPHER: We are off the
19 record at 12:12 p.m.

20 (Off the record.)

21 THE VIDEOGRAPHER: We are back on the
22 record at 12:13 p.m.

23 BY MR. GERHARDSTEIN:

24 Q. Did you have your uniform on on
25 August 13th, 2013?

1 A. Yes.

2 Q. And what was on your duty belt?

3 A. CD21, which is the baton, gun, the
4 magazines, handcuffs, and Taser, and radio.

5 Q. And was yours an X2 or an X26?

6 A. X2.

7 Q. Did you have a flashlight?

8 A. I did not on me at the time. Those
9 aren't on -- those aren't on our belt.

10 Q. At any point in your encounter with
11 Mr. Roell on August 13th, 2013, did Mr. Roell
12 say, I'm not armed?

13 A. No.

14 Q. On the incident recall, you pointed out
15 that the first broadcast, C, slash, C, means, see
16 the complainant?

17 A. Correct.

18 Q. Did you ask any other questions of the
19 complainant after you had been back to the patio?

20 Did you ever have any other encounter
21 with her at all?

22 A. I never -- I never spoke to her, other
23 than when she directed us, you know, from the
24 front.

25 Q. So did you have an opportunity to learn

1 that she had also talked to Mr. Roell that
2 evening?

3 A. I did not.

4 Q. Would that have been helpful to you, to
5 learn what she had learned about Mr. Roell?

6 A. Probably not.

7 Q. You mentioned that you didn't witness
8 Mr. Roell start snoring, right?

9 A. I don't recall that.

10 Q. Would you agree, though, that snoring
11 after vigorous exercise and then like getting out
12 of consciousness to the point where you're
13 snoring, that that is an indication of a medical
14 problem?

15 MS. SEARS: Objection.

16 A. It's odd.

17 BY MR. GERHARDSTEIN:

18 Q. Had you ever -- have you ever heard of
19 that being --

20 A. No.

21 Q. -- a symptom of a medical problem?

22 A. I don't recall, no.

23 Q. Are you friends with either Huddleston
24 or Dalid?

25 A. Am I friends with them?

1 Q. Yeah.

2 A. Yes.

3 Q. Outside of work?

4 A. Yes.

5 Q. Do you socialize with them?

6 A. I do.

7 Q. Did either one of them help you get
8 your job with the sheriff's office?

9 A. No.

10 Q. Did you work with them in
11 corrections?

12 A. I did.

13 Q. Both of them?

14 A. Yes.

15 MR. GERHARDSTEIN: What else you got?

16 BY MR. GERHARDSTEIN:

17 Q. Immediately after the EMS squad removed
18 Mr. Roell, did you have an opportunity to talk to
19 Dalid or Huddleston about what just happened?

20 A. No.

21 Q. Tell me what happened immediately after
22 Mr. Roell was removed from the scene.

23 A. Corporal Steers then directed us all to
24 separate and go into individual cruisers.

25 I went into Corporal Steer's cruiser's

<http://www.yeslaw.net/help>

1 front seat.

2 Other people were also directed to take
3 Deputy Huddleston and Dalid to their respective
4 spots, where they went.

5 Q. Have you ever talked to them about what
6 happened that night?

7 A. After the incident we kind of discussed
8 it, after we got interviewed and everything.

9 Q. Did you talk to them at all between the
10 time you were put in these separate cruisers and
11 the time you were interviewed?

12 A. No.

13 Q. So any conversations you had about what
14 happened all occurred after you were each
15 interviewed?

16 A. Correct.

17 Q. Have you reviewed the interviews of the
18 other officers?

19 A. I have not.

20 Q. Have you seen their videos?

21 A. I have not.

22 MR. GERHARDSTEIN: What else?

23 Okay. I don't have any other
24 questions. Thank you.

25 MS. SEARS: Okay. Thank you.

<http://www.yeslaw.net/help>

1 EXAMINATION

2 BY MS. SEARS:

3 Q. Deputy, you were present yesterday when
4 Deputy Huddleston was -- gave his deposition; is
5 that correct?

6 A. Correct.

7 Q. And in that deposition, do you recall
8 my discussing the corrections academy training
9 and interpersonal communications training?

10 A. Yes.

11 Q. And did you hear Deputy Huddleston's
12 responses to my questions about that training?

13 A. Yes.

14 Q. Is there anything you would add in
15 addition to what Deputy -- Deputy Huddleston said
16 to explain that training? Or was his answer
17 fairly complete?

18 A. It was pretty complete. Just,
19 basically -- it's just the way you talk to people
20 and how to deescalate the situation.

21 Because your mouth is your best tool.

22 Q. And I asked Deputy Huddleston if he had
23 occasion day in and day out in corrections to
24 utilize the skills that he had been introduced to
25 in that training in his job and the scope of his

<http://www.yeslaw.net/help>

1 employment.

2 Did you have that opportunity, sir?

3 A. I did.

4 Q. And then we had a conversation,
5 Deputy Huddleston and I, about CERT, C-E-R-T.

6 Are you familiar with that?

7 A. I am.

8 Q. And I believe -- if I remember
9 correctly, Deputy Huddleston stated that you also
10 were on the CERT team.

11 Did I remember that correctly?

12 A. You did.

13 Q. And Deputy Huddleston described the
14 CERT team in terms of its -- how it looked and
15 what its function is.

16 Is there anything you would add to what
17 Deputy Huddleston had to say?

18 A. No.

19 Q. How long were you a member of the CERT
20 team?

21 A. It was probably three, four years.

22 Q. And how did you come to be on the CERT
23 team?

24 A. We were all individually selected and
25 went through the process of testing and the

1 physical fitness.

2 And we were all selected personally by
3 the man in charge of the CERT team.

4 Q. Who was that person in charge?

5 A. Now it's Captain Scheffler.

6 Q. Oh, Captain Scheffler.

7 And, at the time, was it
8 Captain Scheffler?

9 A. Yes --

10 Q. Okay.

11 A. -- it was.

12 He was a lieutenant at the time.

13 Q. He was a lieutenant? Okay.

14 A. I'm sorry.

15 Q. No, no. That's okay.

16 So it wasn't a different person, he
17 just had a different rank?

18 A. Correct.

19 Q. Okay. And was your job performance up
20 until the time Captain -- then Lieutenant, now
21 Captain Scheffler, asked you to participate on
22 the CERT, was your job performance a
23 consideration?

24 A. Yes.

25 Q. Was your ability to handle inmates in

1 particular situations, whether they be tense
2 situations or other situations -- was that a
3 variable that Captain Scheffler considered in
4 choosing you to join CERT?

5 A. Yes.

6 Q. Was your decision-making and judgment,
7 as you exhibited it during the time you were a
8 corrections officer -- was that a variable or a
9 characteristic that the captain -- then
10 lieutenant -- was considered, if you know?

11 A. Yes.

12 Q. Was your decision-making and your
13 ability to make decisions, to assess the
14 situation and make a determination as to the
15 proper reaction from a tactical law enforcement
16 perspective -- was that a characteristic, if you
17 know, that the then lieutenant took into account
18 when asking you particularly to join the CERT
19 team?

20 A. Yes.

21 Q. And then can you tell me what your
22 reason was for taking the patrol academy and
23 leaving -- attempting -- I guess designing to
24 leave corrections and go on road patrol?

25 A. My objective was to -- always wanted to

<http://www.elyseawesthelp.com>

1 come out to the streets and not stay in the jail.

2 And the first opportunity I was given
3 to take the patrol academy, I jumped on it and
4 took it and enrolled.

5 Q. Now that you've been on patrol for --
6 what, since '12? Am I --

7 A. January 2013.

8 Q. '13.

9 Now that you've been on patrol since
10 '13, did you -- do you find that your work in
11 corrections has been an asset to you in terms of
12 your working the patrol division?

13 A. Absolutely.

14 Q. And what assets would you say that you
15 gathered while you were a corrections officer
16 that are useful to you now, while you're on
17 patrol?

18 A. The way you handle the constantly
19 evolving scenarios that happen in the jail pod,
20 the agitated people, the high-profile people.

21 You know, you -- the way you talk to
22 them, you know, gets you through the day.

23 Q. And when you say high-profile, what do
24 you mean?

25 A. High-profile cases, murderers, you

1 know, stuff like that, that -- high-felony
2 crimes.

3 Q. And, let's see, you said rapidly
4 evolving situations --

5 A. Correct.

6 Q. -- that occur in the jail.

7 And when you compare the jail
8 environment and the patrol environment, would you
9 agree with me that the patrol environment can be
10 more challenging because there are less variables
11 that you can control?

12 A. Correct; a lot more environmental
13 weapons out on the road. And there --

14 MS. SEARS: Speak up a little bit. Wendy --

15 A. A lot more environmental weapons on the
16 street than there is in the jail.

17 BY MS. SEARS:

18 Q. And when you mean -- when you say
19 environmental weapons, is that a -- kind of a
20 term of art in the law enforcement profession?

21 A. Correct.

22 Q. Okay. Can you explain for the record
23 what an environmental weapon is?

24 A. It could be anything out on the streets
25 that could be used as a weapon against us.

1 Q. Can you give me some examples that --
2 of an environmental weapon?

3 A. In reference to a specific incident?

4 Q. This incident or any other.

5 A. There's glass -- a hose, glass,
6 anything they can pick up and throw at us.

7 I mean --

8 Q. And are you familiar with the term
9 deadly weapon?

10 A. I am.

11 Q. Okay. And how would you define a
12 deadly weapon?

13 A. It's a weapon that can result in deadly
14 force if you use it.

15 Q. And could an unloaded gun be a deadly
16 weapon?

17 A. It could be.

18 Q. Could a ceramic pot be a deadly
19 weapon?

20 A. Yes.

21 Q. What?

22 A. Yes.

23 Q. And when you are on scene in -- in the
24 real world, not in the jail environment, are you
25 trained to assess the potential threat that --

1 that might arise?

2 A. Correct.

3 Q. And are you trained to, basically, plan
4 for the worst and hope for the best?

5 A. Yes.

6 Q. Did you recall or do you recall my
7 conversation with Deputy Huddleston about the
8 patrol academy yesterday --

9 A. Yes.

10 Q. -- took the patrol academy?

11 A. Yes.

12 Q. And was that at Butler Tech, as well?

13 A. It was.

14 Q. And did -- do you recall that I went
15 over the curriculum from the patrol academy with
16 Deputy Huddleston yesterday?

17 A. I do.

18 Q. I'm not going to go over it all with
19 you. But if you don't mind, just looking at
20 Exhibit B for me.

21 MS. SEARS: It was probably in this
22 pile. Let me see if I can -- oh, here it
23 is, right on top.

24 BY MS. SEARS:

25 Q. Just -- I just ask you to glance at

1 that and see if those topics sound familiar to
2 you, and if the hours seem about right.

3 I mean, I understand that you're not --
4 you didn't calculate them. You don't have a
5 calculation of them. So --

6 A. It does look accurate.

7 Q. And then, if you don't mind -- just
8 taking a glance at what has been marked as, I
9 believe, Exhibit C, which I think
10 Mr. Gerhardstein has already showed you.

11 MS. SEARS: We're going to try real
12 hard not to take your exhibits.

13 BY MS. SEARS:

14 Q. Exhibit C and Exhibit D; and I'm just
15 going to ask you to glance at those, which you
16 already did with -- with regard to one of them.

17 I think it was the special needs
18 population that you went over with
19 Mr. Gerhardstein.

20 A. Correct. Yes.

21 Q. Do these appear to be OPOTA curriculum?

22 A. Yes.

23 Q. And do you see --

24 MS. SEARS: We're on M, Wendy, right?

25 THE REPORTER: (Indicating.)

1 MS. SEARS: Why don't I have a picture
2 of these? I'm such a gumba.

3 (Deposition Exhibit M was marked for
4 identification.)

5 BY MS. SEARS:

6 Q. I'm showing you what's been marked as
7 Exhibit M for purposes of your -- of your
8 deposition.

9 Is this a sign-up -- sign-in sheet from
10 the Butler Tech patrol academy?

11 A. It is.

12 Q. And I think -- if you just page through
13 them after I'm done paging through them, I think
14 there's a date at the top; is that right?

15 A. There is.

16 Q. Are these a series of sign-in sheets
17 that you signed when you took the classes at
18 Butler Tech on crisis intervention and dealing
19 with the special needs population?

20 A. It is.

21 Q. And did you pass that academy?

22 A. Yes.

23 Q. And did you pass the OPOTA test?

24 A. Yes.

25 Q. And since you did -- oh, I forgot to

<http://www.yeslaw.net/help>

1 ask you this.

2 Deputy Huddleston said that while on
3 CERT, that there were regularly scheduled
4 training sessions four hours a month?

5 A. Correct.

6 Q. Is that your recollection, as well?

7 A. Yes.

8 Q. Did you participate in those?

9 A. I did.

10 Q. And how would you describe the types of
11 training that you -- you participated in?

12 A. A lot of it was scenario-based.

13 We -- they put us in high-stress
14 scenarios or scenarios that have happened in the
15 past.

16 And we go through it, and they critique
17 us and make sure we did it proficiently and
18 safely and tactically correct.

19 Q. And would you -- I think I asked you
20 this.

21 Would you agree, about four hours a
22 month -- every month you had --

23 A. Correct.

24 I think we had like a weekend during
25 the summer, too, or a three-day-weekend training.

1 Q. Okay; the CERT -- CERT team?

2 A. Correct.

3 Q. And with regard to the patrol academy,
4 did you have firearms training in the patrol
5 academy?

6 A. I did.

7 Q. And did you have the opportunity to go
8 through FAS training in the patrol academy?

9 A. I did.

10 Q. Simulated firearms training --

11 A. Yes.

12 Q. -- is that correct?

13 A. Yes.

14 Q. Now, since you've been out in the
15 sheriff's department on patrol, have you been --
16 has there been training available to you, or have
17 you participated in training?

18 A. Yes.

19 Q. And you're not looking at a list of
20 your training now, are you?

21 A. No.

22 Q. Just off the -- just from your
23 recollection, what would you say would be the
24 training that you participated in?

25 A. I went into some traffic-stop training,

<http://www.yeslaw.net/help>

1 high-risk traffic stops and some drug
2 identification training.

3 It was mostly drug and traffic-stop
4 training, additional.

5 Q. And do you get recertified on your
6 Taser every year?

7 A. We do.

8 Q. And do you get recertified on your
9 firearm every year?

10 A. We do.

11 Q. And in that recertification of your
12 firearm, do you review your use-of-force
13 policy?

14 A. We -- think so; believe so.

15 MS. SEARS: This will be N.

16 (Deposition Exhibit N was marked for
17 identification.)

18 BY MS. SEARS:

19 Q. I'm showing you what's been marked as
20 Exhibit N for purposes of your deposition today.

21 Do you recognize this?

22 A. It's an evaluation.

23 Q. And at the top, is this a -- is this
24 one of your evaluations?

25 A. Yes.

1 Q. And it's dated 4/7/12; is that right?

2 A. Yes.

3 Q. Were you still in corrections at that
4 time?

5 A. I was.

6 Q. And this says annual evaluation; is
7 that right?

8 A. Yes.

9 Q. And who was reviewing you? Who was --
10 who was giving you this evaluation?

11 A. Looks like Sergeant Sparks (phonetic)
12 and Sergeant Keaton (phonetic).

13 Q. And then Lieutenant -- now Captain --
14 Scheffler, looks like he signed off on it.

15 A. Correct.

16 Q. Okay. Could I call your attention to
17 the comments on the next page?

18 He -- do you see that -- does a
19 particularly good job when he is assigned to work
20 in the psych unit.

21 Do you see that?

22 A. I do.

23 Q. Deputy Alexander gets along well with
24 others, assists without complaint.

25 Do you see that?

1 A. I do.

2 Q. And then if you drop down to the next
3 paragraph, I have supervised Deputy Alexander for
4 the last three months. He has primarily been
5 assigned to the psych unit.

6 Is that your memory?

7 A. Yes.

8 Q. In this position he's required to
9 interact with our mental and disturbed inmates.

10 Do you see that?

11 A. I do.

12 Q. I feel he is successful in this area
13 due to his low-key approach.

14 Do you see that?

15 A. I do.

16 Q. Do you have a low-key approach?

17 A. I do.

18 Q. How do you define a low-key approach?

19 A. I always come in just trying to -- I'm
20 not trying to go hands-on -- or use of force
21 unless necessary.

22 And I just try to just talk to them
23 and, I guess, just have a -- the best tool on my
24 belt's my mouth, and I use it.

25 Q. He seems to only raise his voice when

1 it is absolutely necessary.

2 Do you see that?

3 A. Yes.

4 Q. Do you agree with that?

5 A. I do.

6 Q. He tries to bring an inmate to his
7 level for a successful conclusion in a possible
8 critical situation.

9 Do you agree that that's what you tried
10 to do in -- while in corrections?

11 A. Yes.

12 Q. Do you continue to use these sorts of
13 personality attributes in your work on the patrol
14 unit?

15 A. I do.

16 Q. Do you find that this particular
17 approach to people that you come into contact
18 with is effective?

19 A. Very.

20 Q. And do you find it more effective than,
21 perhaps, just going to warp 8 right in the
22 initial contact?

23 A. I agree, yes.

24 Q. And why do you find it more
25 effective?

1 A. Because you're not coming in at such a
2 high level. You're not -- you know, you want to
3 keep the -- keep the stress level down, keep
4 everything low, low-key.

5 And just -- that usually results in a
6 successful encounter with whoever I'm
7 encountering with.

8 Q. And if, for some reason, that doesn't
9 work, where -- where do you go from there?

10 A. You -- I mean, you have to raise your
11 voice and, you know, you can follow a continuum.

12 Q. And in your view as a law enforcement
13 professional, does the subject control the degree
14 of force that's necessary in any particular
15 interaction with a subject?

16 A. Yes.

17 Q. And in your interaction with a subject,
18 if you -- if you would go immediately to a sort
19 of an aggressive -- you know, I call it Mach 8 or
20 warp 8 kind of approach, just as immediate
21 interaction with a subject, would that incline --
22 in your experience, to have the subject meet you
23 at that level?

24 A. Typically.

25 Q. So from an officer safety perspective,

1 and from a tactical consideration perspective, is
2 it a better approach to come in low-key and --
3 and move up from there, depending on what's
4 necessary?

5 A. Yes.

6 Q. When you are in a tactical encounter
7 with a subject, can you tell me about the
8 variable of officer safety?

9 Is that a variable that you consider?

10 A. Is what a variable?

11 Q. Officer safety.

12 A. Yes.

13 Q. Is -- in terms of the variables that
14 you consider, where would you place officer
15 safety?

16 A. It's at the top.

17 Q. At the top?

18 A. Yeah.

19 Q. Do you have a firearm when you
20 encounter a subject --

21 A. I do.

22 Q. -- on your person?

23 A. I do.

24 Q. Is it loaded?

25 A. Yes.

1 Q. Do you recall you discussed with
2 Mr. Gerhardstein some excited delirium training
3 that you did? And you actually looked at what, I
4 believe, is Exhibit 2, the roll call training.

5 A. I do.

6 Q. Do you recall whether you had that roll
7 call training before or after your encounter with
8 Mr. Roell?

9 A. I don't recall. I think it was
10 before.

11 Q. But you don't -- but you're not
12 certain?

13 A. I'm not certain.

14 Q. Okay. Can you tell me -- we've had a
15 lot of conversations about plans and whether you
16 had a plan and what your plan was.

17 Tell us about what you're trained to
18 do.

19 For example, in this particular
20 situation involving Mr. Roell, you get a run for
21 a -- neighborhood trouble run. Okay? This is
22 your run.

23 You hear it and you -- you respond to
24 it?

25 A. Correct.

1 Q. What -- what are you trained to do?

2 A. Investigate the complaint.

3 Q. Okay.

4 A. And then make contact with who the --
5 the complaint is against.

6 Q. The subject, let's call the person.

7 A. Okay, the subject -- and evaluate the
8 situation and go from there.

9 Q. Okay. So when you get to the scene,
10 other than what you understand the run to be, you
11 don't have necessarily -- or do you have
12 necessarily a preconceived notion of what you're
13 going to find there?

14 A. No.

15 Q. Other than what you might glean from a
16 dispatch or maybe some other personal contact you
17 may have had with the subject or complainant, do
18 you assume any particular scenario that -- that
19 you're going to encounter?

20 A. No.

21 Q. When you first encounter a subject --
22 let's say he is the subject of a complaint --
23 what are you trained to do with regard to that
24 subject?

25 A. Make contact and investigate the

1 situation.

2 Q. And when you see the subject and he is
3 standing in your physical presence, what kinds of
4 things are you observing about the subject to
5 assess the situation?

6 A. It's the surroundings, what's in his
7 hands, his demeanor.

8 Q. And do the things that you observe
9 about the subject and assess about the subject
10 then inform how you're going to interact with the
11 subject?

12 A. Yes.

13 Q. And do they also then dictate the --
14 the next steps of your encounter with the
15 subject?

16 A. Yes.

17 Q. When you encounter a subject when
18 you're in uniform and they're 15 feet away from
19 you and you are asking them what's going on and
20 they start coming to you briskly, do you assess
21 something at that point?

22 A. Yes.

23 Q. What is the assessment?

24 A. He's coming towards me to possibly hurt
25 me.

1 Q. So do you assess a threat at that
2 point?

3 A. Absolutely.

4 Q. And let's say, for example, this
5 incident, as you've testified, one of the
6 officers shows their Taser, arcs their Taser, and
7 orders him to stop, stop, show your hands, stop,
8 and they don't stop. They continue to come.

9 What is your assessment of that threat?

10 A. He's possibly trying to hurt us. He's
11 not going to comply.

12 Q. At that point, in that scenario, do you
13 make a determination to take that subject under
14 control?

15 A. Yes.

16 Q. In your opinion as a professional law
17 enforcement officer, do you have any other option
18 at that point?

19 A. No.

20 Q. Once you've made the assessment to take
21 the subject under control -- in this particular
22 scenario -- let's assume that, as in this
23 incident, as you've described it, a matter of
24 minutes, and you're struggling and fighting with
25 that person, is there any time during that

1 struggling and fighting that you decide not to
2 take the subject under control?

3 A. No.

4 Q. Now, let's say the subject is mentally
5 ill.

6 Does that mean you don't take him under
7 control?

8 A. No.

9 Q. Let's say the subject is high on PCP.

10 Does that mean you don't take him under
11 control --

12 A. No.

13 Q. -- in this scenario?

14 Let's say the subject is drunk as a
15 monkey and combative and aggressive.

16 Does that matter to you in terms of
17 your assessment of a threat and whether to take
18 him under control?

19 A. No.

20 Q. Now, once the subject's under control,
21 whether the subject is mentally ill or in need of
22 medical care --

23 A. Yeah.

24 Q. -- is that a variable that you need to
25 consider?

1 A. Yes.

2 Q. Once the subject's under control, if
3 the person is so, perhaps, high on drugs or has
4 some other kind of hallucinatory or is in an
5 intoxicated state, is that a variable that you
6 need to consider once he's under control?

7 A. Yes.

8 Q. Now, at some point in the questioning,
9 Mr. Gerhardstein -- Gerhardstein described you as
10 saying, give me your hands, give me your hands.
11 And I think other times it was, show me your
12 hands.

13 A. Okay.

14 Q. What do you recall saying to
15 Mr. Roell?

16 A. I don't recall the exact -- it was
17 something along those lines, to comply, show us
18 your hands, give us your hands.

19 Q. Okay. And by that, were you -- what
20 were you ordering him to do from your pers --
21 perspective?

22 A. Put his hands up.

23 Q. To put his what?

24 A. Put his hands up.

25 Q. Put his hands up?

1 A. Right.

2 Q. And --

3 A. Or drop what he had, you know, just
4 comply.

5 Q. Now, is that a command that you have
6 been taught to be given -- taught to give?

7 A. Yes.

8 Q. And that is a command that you've given
9 on other occasions?

10 A. Correct.

11 Q. Now, in your testimony or your
12 conversation with Mr. Gerhardstein, you said that
13 he said, no, no, no.

14 And from your perspective -- I thought
15 your testimony was you thought he was saying no
16 in terms of your commands; no, I'm not going to
17 show my hands, no, I'm not going to drop
18 anything.

19 A. Correct.

20 Q. Was that your perception at the time?

21 A. Yes.

22 Q. Now, later on in your conversation with
23 Mr. Gerhardstein, he asked you, you don't really
24 know what he meant.

25 And you said, well, no, really don't

1 know what he meant.

2 Do you remember having that
3 conversation --

4 A. Yes.

5 Q. -- with Mr. Gerhardstein?

6 So you don't really know what he
7 actually meant.

8 But when you tell us what your
9 perception was, your perception was he was
10 refusing to comply with your commands?

11 A. Correct.

12 Q. Now, when you're assessing someone as
13 to whether or not they're a potential threat, the
14 fact that you're ordering them to do something
15 and you're showing your command presence -- I
16 think is how Mr. Gerhardstein described it -- and
17 they refuse to comply with your authority, what
18 does that speak to you in terms of your
19 assessment of the threat and the seriousness of
20 the situation?

21 A. It's serious. He's coming to maybe
22 hurt me.

23 Q. And the fact that he is -- you
24 perceived him saying, no, no, no, to your
25 commands, did that enter into your assessment

1 that Mr. Roell was a threat?

2 A. Absolutely.

3 Q. Now, is that part of your training, in
4 terms of subject control and subject observation
5 to make those observations about a subject and
6 then draw inferences about the subject in order
7 to keep yourself safe?

8 A. Yes.

9 Q. Let's say you responded and -- I think
10 you said -- I don't want to put words in your
11 mouth.

12 I think you said you responded and you
13 knew it was a neighbor trouble run. And you
14 remember hearing that dispatch; is that right?

15 A. Correct.

16 Q. And when you got there, you said you
17 saw the neighbor at her -- what you believe to be
18 her doorway --

19 A. Correct.

20 Q. -- is that right?

21 Now, in your statement, you also said
22 you remembered seeing a kid, or what you
23 perceived to be a kid, also --

24 A. Right.

25 Q. -- is that right?

1 A. That's what I said in my statement,
2 correct.

3 Q. Now, the fact that there is a woman and
4 maybe children in this house where the
5 complainant was, is that a variable that you
6 consider in assessing the seriousness of the
7 encounter that you're going to have --

8 A. Yes.

9 Q. -- or the -- the -- I guess, the
10 tactical considerations that you're going to
11 make?

12 A. Yes.

13 Q. And why -- what is the tactical
14 consideration or the consideration of that
15 variable in terms of how you're going to deal
16 with a situation?

17 A. Well, the call came out. He was
18 breaking the windows. And I know there's a
19 family inside he could potentially be going in to
20 hurt. I don't know his objective.

21 I guess that's a variable of -- make
22 sure the family is safe.

23 Q. So at the time you're running around
24 the house, is it your testimony that you don't
25 know if he's breaking in, you don't know if he's

1 breaking in to hurt someone?

2 You have no idea what he's doing?

3 A. Right.

4 Q. And at this point, again, are you
5 planning for the worst --

6 A. Yes.

7 Q. -- and hoping for the best?

8 A. Yes.

9 Q. Now, Mr. Gerhardstein has asked you
10 several times about a plan.

11 As you and Deputy Huddleston respond to
12 that address, bail out of your cars, see the
13 victim and run around to the back of the house to
14 encounter what you believe to be the subject of
15 the complaint, are you responding according to
16 your training?

17 A. Yes.

18 Q. So do you need to discuss with
19 Deputy Huddleston what you're going to do and how
20 you're going to do it?

21 A. No.

22 Q. What?

23 A. No.

24 Q. Are you trained in terms of how -- what
25 you're going to do and how you're going to do it

1 in terms of getting to the house, assessing
2 immediately the situation, and then running
3 around to the back to encounter the subject?

4 A. Yes.

5 Q. Now, if the -- if the complainant in
6 this case had -- had not waved you around back,
7 would you have gone around back?

8 A. I think that --

9 Q. -- or do you know?

10 A. I -- I don't know.

11 Q. Do you want to look at Exhibit 17?

12 A. All right.

13 Q. Okay. Take a minute to do that.

14 A. I probably would have, because the
15 detail came in that he was standing in the
16 backyard.

17 Q. Okay. So if the detail had come
18 back -- had not come back that he was standing in
19 the backyard, let's say, would you have known to
20 go in the backyard?

21 A. No.

22 Q. And would you have stopped and talked
23 to the complainant?

24 A. Correct.

25 Q. But, in this particular case, you

1 didn't need to do that.

2 A. Correct.

3 Q. You don't need to stop and talk to
4 her --

5 A. Correct.

6 Q. -- right? Okay.

7 So when you and Deputy Huddleston get
8 around back, you contact Mr. Roell; is that
9 right?

10 A. Yes.

11 Q. And I think you testified that
12 Deputy Huddleston said something to him.

13 I can't remember what you said that --

14 A. I remember that I was yelling. I don't
15 remember if he was yelling.

16 Q. Okay. And I could be wrong, but I
17 thought you said Deputy Huddleston said something
18 like, what are you doing, or something like that.

19 A. Yeah.

20 Q. Do you -- was that your testimony?

21 A. Something along those lines.

22 Q. And you said Deputy -- you were
23 standing outside the gate, not in the patio
24 enclosure when you said that, right?

25 A. Right.

1 Q. Now, is there a tactical reason why you
2 would remain outside the gate instead of going
3 right into the patio area when you first
4 encountered Mr. Roell?

5 A. We were going to be closer to him, and
6 you've got your distance, and you've also got the
7 gate as your cover, if needed.

8 Q. So there were tactical considerations
9 that you were considering in terms of whether to
10 go into the gate?

11 A. Correct.

12 Q. Did you -- did you talk to
13 Deputy -- Deputy Huddleston about a plan for
14 those tactical considerations before you went
15 there?

16 A. No.

17 Q. Are you trained to consider those
18 tactical considerations?

19 A. Yes.

20 Q. Do you have to talk to each other about
21 them?

22 A. No.

23 Q. So as I understand it, there was that
24 initial encounter with Mr. Roell, and he started
25 coming at you in what you described as a brisk

1 pace -- or I don't want to put words in your
2 mouth.

3 But you variously described it, you and
4 Deputy Huddleston, as a -- as a fast pace,
5 correct?

6 A. Correct.

7 Q. And you've described it as an
8 aggressive and combative manner that he came at
9 you?

10 A. Correct.

11 Q. And so those observations that you were
12 making about him, did those enter into your
13 assessment of what the appropriate action --
14 reaction to his force would be?

15 A. Yes.

16 Q. Is that when you started yelling at him
17 commands in a loud voice that you exhibited for
18 us earlier?

19 A. Yes.

20 Q. Now, did you and Deputy Huddleston make
21 a plan about how you were going to talk to
22 Mr. Roell if he came at you in a combative and
23 aggressive way?

24 A. No.

25 Q. Are you trained as to how to interact

<http://www.yeslaw.net/help>

1 with a subject who comes at you in a loud,
2 aggressive manner?

3 A. Yes.

4 Q. And, in fact, you're trained in terms
5 of subject control. And that's one of the
6 dynamics that you're -- well, let me ask you -- I
7 shouldn't say that.

8 Let's -- I'll rephrase it, because that
9 was --

10 Are you trained in a -- in a -- in the
11 academy and beyond in terms of subject control?

12 A. Yes.

13 Q. And is part of that training becoming
14 aware of and reactive to those inferences that
15 you make about what a subject may be trying to do
16 from how he acts?

17 A. Yes.

18 Q. You indicated that, just now, it was --
19 the distance between you and Mr. Roell was
20 something you considered, right?

21 A. Yes.

22 Q. And why is that important?

23 A. There's the reactionary gap of the time
24 where they can respond to you, get to you quickly
25 enough where you can respond and pull out a

1 weapon.

2 There's a gap there you want to keep to
3 keep yourself safe.

4 Q. And where did you learn about that?

5 A. In the academy.

6 Q. And did you and Deputy Huddleston and
7 then Dalid talk about the reactionary gap as you
8 were encountering Mr. Roell?

9 A. No.

10 Q. Did you talk about the importance of
11 maintaining a distance in your planning of how
12 you were going to interact with Mr. Roell?

13 A. No.

14 Q. Mr. Gerhardstein asked you whether
15 Mr. Roell struck you.

16 Do you recall that conversation with
17 Mr. Gerhardstein?

18 A. I -- I do.

19 Q. And did you give Mr. Roell an
20 opportunity to strike you?

21 A. No.

22 Q. Did you give Mr. Roell an opportunity
23 to take that basket and smack you upside the head
24 with it as you were maybe two feet away from
25 him?

1 A. No.

2 Q. Did you give Mr. Roell the opportunity
3 to grab your firearm?

4 A. No.

5 Q. Now, are you trained to control a
6 subject before they have an opportunity to hurt
7 you?

8 A. Yes.

9 Q. Are you trained to control a subject
10 before they have the opportunity to get anywhere
11 near you, to punch you, if you can?

12 A. Yes.

13 Q. Now, Mr. Gerhardstein also asked you
14 when Mr. Roell went back into the gated area, to
15 your knowledge, was he destroying any property
16 there.

17 Do you recall that?

18 A. I do recall that.

19 Q. As I understood your testimony,
20 Deputy Huddleston deployed the Taser the first
21 time -- the first deployment of the actual
22 cartridge --

23 A. Correct.

24 Q. -- correct?

25 And as it was cycling in that five

1 seconds, is when Mr. Roell went into the gate and
2 you followed him?

3 A. Correct.

4 Q. So assuming that Taser actually cycles
5 for five seconds, the time from when the Taser
6 was deployed and -- and he was outside the gate,
7 to whether -- when he was inside the gate with
8 the three of you, was somewhere within five
9 seconds?

10 A. Yes.

11 Q. So when you indicated to
12 Mr. Gerhardstein that you didn't have time in
13 those five seconds to stop and make a plan, did
14 you have time in those five seconds to stop and,
15 perhaps, have a debate amongst yourselves about
16 what you should do?

17 A. No.

18 Q. What did your training and your
19 experience tell you at that point that you needed
20 to do?

21 A. We needed to contain and gain control
22 of him.

23 Q. And would your training and your
24 experience support the three of you allowing
25 Mr. Roell to simply go back into that gate and

1 shut that gate and remain there for, I don't
2 know, whenever -- whatever time it might take for
3 EMS to -- to respond?

4 A. No.

5 Q. Now, let's think about -- let's talk
6 about EMS responding.

7 Did you hear the conversation yesterday
8 between Mr. Gerhardstein and Deputy Huddleston
9 about staging?

10 A. Correct.

11 Q. And is staging necessarily the same
12 thing as being on scene?

13 A. No, it's not.

14 Q. And what's the difference between
15 staging and being on scene?

16 A. On scene means you're actually
17 physically on the scene of the incident.

18 Staging means they're somewhere around
19 the area. It could be around the corner. It
20 could be around the block. It could be a couple
21 blocks away --

22 Q. And --

23 A. -- waiting for the scene to be secure
24 to respond onto the scene.

25 Q. So what entity makes the determination

1 of where the staging of EMS occurs?

2 Does the sheriff's department decide
3 that?

4 A. Do we decide where they stage?

5 Q. Yes.

6 A. No.

7 Q. And what entity decides when they'll
8 respond to scene?

9 Do you guys tell them when to respond
10 to scene?

11 A. We -- that day, we requested them to
12 respond.

13 Q. Okay. And once -- once they get to the
14 scene, if the subject's out of control, will they
15 approach the subject?

16 A. Absolutely not.

17 Q. So let's say from Mr. Gerhardstein's
18 example, that you shut Mr. Roell in the gate, and
19 you wait for EMS to get there.

20 And let's just assume for the sake of
21 Mr. Gerhardstein's theory that Mr. Roell sits
22 down in one of those chairs and just hangs out
23 until EMS gets there. Okay?

24 A. Okay.

25 Q. Let's just assume that there's no

<http://www.yeslaw.net/help>

1 damage and he doesn't try to get into the house.

2 None of those things that might happen happen.

3 A. Okay.

4 Q. Okay?

5 And then EMS gets there. And now the
6 gate's shut.

7 Then what happens?

8 A. They're still going to want us to
9 secure him before they talk to him.

10 Q. And so you would have to open the gate
11 and go in -- into the patio area?

12 A. Correct.

13 Q. Okay. Now that Mr. Roell's been alone
14 in that patio area while you all have been
15 waiting for EMS, does that suggest to you any
16 tactical considerations or officer safety
17 concerns?

18 A. Now we're at square one where we
19 were.

20 Q. Are you?

21 A. Yeah.

22 Q. What's in that patio?

23 A. Glass, hose, plants, flower pots.

24 Q. And while Mr. Roell was in that patio
25 area, what was he doing?

1 A. The -- when we came in the encounter
2 with him?

3 Q. No. Let's say that you're standing
4 outside that -- that gate waiting for EMS to
5 come.

6 What's he doing while he's in there
7 where you can't see him?

8 A. We don't know.

9 Q. And so this -- when EMS comes, you
10 would go secure Mr. Roell; is that correct?

11 A. Correct.

12 Q. And when you went to secure Mr. Roell,
13 let's say when EMS comes, would you -- would you
14 use the same tactics that you used in the
15 incident that you used -- would you still employ
16 the hands-on approach --

17 A. Yes.

18 Q. -- assuming that he was not
19 cooperative?

20 A. Yes.

21 Q. How long would that take?

22 A. Who knows?

23 Q. Now, was Mr. Roell in that patio
24 area -- when he went back into that patio area,
25 during that cycle of tasing, was he in there long

1 enough to pick up a flower pot and throw it
2 through any windows or destroy any property?

3 A. We got in there pretty quick, so I
4 don't believe he had enough time.

5 Q. Was that a tactical consideration of
6 yours?

7 A. Yes.

8 Q. Now, when Mr. Roell turned around and
9 went into the gated patio area, did you respond
10 according to your training?

11 A. Yes.

12 Q. In your opinion as a professional law
13 enforcement officer, was it necessary for you to
14 have a conversation with Deputy Huddleston and
15 Dalid about how you were going to physically take
16 control of Mr. Roell?

17 A. No.

18 Q. In fact, as a tactical consideration --
19 would it be detrimental, tactically, to stop and
20 have that conversation?

21 A. It potentially could.

22 Q. And what would be detrimental or
23 adverse about having that conversation at that
24 point?

25 A. He's in that patio area with the

1 weapons and the family is also the victims and
2 inside the residence.

3 He can go destroy stuff again. And
4 there's all kinds of variables.

5 Q. And when you say weapons, are you -- do
6 you mean the term environmental --

7 A. Environmental weapons.

8 Q. Can I ask you to look at Exhibit 16, at
9 page 43?

10 A. 16?

11 Q. Yes. It would be the transcript of
12 your statement that Mr. Gerhardstein prepared for
13 you -- or that he gave to you, I should say;
14 page 43.

15 Detective -- the detect -- this is a
16 conversation you had with Mr. -- when you were
17 struggling with him, was he throwing -- besides
18 the one punch he hit you in the face, did he
19 throw any other punches?

20 And you said, He was flailing
21 everywhere around. I don't think he was trying
22 to swing at anything in particular.

23 In your testimony, or before, when you
24 were talking to Mr. Gerhardstein, you indicated
25 it was your perception that Mr. Roell meant to

1 punch you in the face.

2 Is -- was that your perception at the
3 time?

4 A. Yes.

5 Q. And then with the subsequent flailing
6 around that Mr. Roell was doing, was it your
7 perception that he was trying to continue to hit
8 people? Or did you have a different perception
9 about those other actions he was taking
10 physically?

11 A. I just think he was trying to actively
12 get away or resist some more; continued to
13 resist.

14 Q. And so from your testimony here -- or
15 from your interview here, the particular words
16 you used -- you use the word punch with regard to
17 the contact that was with your face with a fist.

18 And you use flailing everywhere around
19 as describing these other actions.

20 Are those two -- well, tell me what you
21 mean when someone's flailing around. What did
22 you observe, if you can recall, about what
23 Mr. Roell was doing?

24 A. He was just swinging his arms around,
25 trying to get away, trying to actively resist and

1 just moving his whole body around.

2 Q. He wasn't balling up his fists and
3 punching people?

4 A. No.

5 Q. So that flailing around, was that a
6 different action from the fist he made, where he
7 punched you in the face?

8 A. Yes.

9 Q. Had you ever been called to the
10 Barrington -- to this location? I think it's --
11 what is it, Barrington Court?

12 Had you personally ever been there?

13 A. Before this incident?

14 Q. Yes.

15 A. I don't think so.

16 Q. And had you personally had any contact
17 with Mr. Roell before?

18 A. I had not.

19 Q. Okay. So Mr. Gerhardstein and you
20 discussed excited delirium. And I got a little
21 confused.

22 So at one point, Mr. Gerhardstein asked
23 you whether you felt the Taser took effect.

24 And you said no, correct?

25 A. Correct.

1 Q. And when you say take effect, what
2 do -- what do you mean?

3 What would -- if it took effect, what
4 would you expect to see from the subject?

5 A. I expect to see him stop and the
6 neuromuscular -- NMI to take effect.

7 Q. NMI; a neuromuscular effect, right?

8 A. Yes.

9 Q. And what does that look like?

10 A. It's usually straight -- you straighten
11 up and you're locked up and can't move.

12 Q. And do you sometimes fall down?

13 A. Yes.

14 Q. Did you ever observe Mr. Roell
15 straighten up, lock up, or fall down, as a --
16 what you considered to be a direct result of a
17 Taser deployment?

18 A. No.

19 Q. So this is where I get a little
20 confused.

21 I thought -- and I could be mistaken --
22 that Mr. Gerhardstein asked you, isn't this a
23 factor that would lead you to believe that
24 Mr. Roell was experiencing excited delirium.

25 Do you recall that conversation that

1 you had with Mr. Gerhardstein?

2 A. Tasers not taking effect --

3 Q. Yes.

4 A. -- not being a factor?

5 Q. Yes.

6 A. I don't recall that.

7 Q. You don't recall having that
8 conversation.

9 What I want -- what I want to explore
10 is, is it -- is it your testimony that a Taser
11 could have complete conductivity on a subject
12 who's experiencing excited delirium and, because
13 of excited delirium, the Taser would have no
14 effect?

15 A. I don't --

16 Q. Is that your testimony?

17 A. I don't think so.

18 Q. Do you have any idea about that?

19 A. No.

20 Q. When have you been trained that a Taser
21 would not take effect on a subject?

22 A. When the barbs aren't connected.

23 Q. Do you have any reason or any
24 understanding or any ability to know whether the
25 barbs affected and you have complete

1 connectivity -- connectivity, that a person
2 experiencing excited delirium would be impervious
3 to that connectivity?

4 A. No.

5 Q. So if that was -- if that was, perhaps,
6 how your testimony sounded, that -- that would
7 not be an accurate statement of what you
8 personally know?

9 A. Correct.

10 Q. Okay. In this particular situation, do
11 you -- well, strike that.

12 Let's look at Exhibit 5.

13 Do you recall looking at this with
14 Mr. Gerhardstein?

15 A. I do.

16 Q. And he asked you to look at -- he asked
17 you whether or not Mr. Roell fit the definition
18 of physical or mental impairment.

19 Do you see that?

20 A. I do.

21 Q. And you said yes.

22 A. Yes.

23 Q. Okay. Can you tell me what medically
24 recognized disorder that you observed that
25 Mr. Roell had at the time you encountered him?

1 Did you observe a medical-recognized
2 disorder that you were aware of when you -- when
3 he was coming at you in that patio area?

4 A. No.

5 Q. Did you see any anatomical loss or
6 disfigurement?

7 A. No.

8 Q. What about neurological impairment?
9 Did you have a way to see if there was any
10 neurological impairment?

11 A. No.

12 Q. Musculoskeletal -- I don't even know if
13 I can say that very well.

14 Did you see any of that impairment?

15 A. No.

16 Q. He moved pretty good, didn't he?

17 A. Yes.

18 Q. Pretty well, I should say.

19 What about respiratory impairment? Did
20 you see any of that?

21 A. No.

22 Q. Did you -- were you aware of any blood
23 or heart disorders?

24 A. No.

25 Q. Any mental retardation?

1 A. No.

2 Q. Were you aware that he was mentally
3 ill?

4 A. No.

5 Q. Did he seem to have visual impairment?

6 A. No.

7 Q. Hearing impairment?

8 A. No.

9 Q. Speech impediments?

10 A. No.

11 Q. Okay. So why did you say yes?

12 A. I don't know.

13 Q. All right. So with regard to these --
14 this description and this definition of physical
15 and mental impairment, you see it now, right?

16 A. Yes.

17 Q. Could someone who's drunk as a monkey
18 present physical impairment to you?

19 A. Yes.

20 Q. Mental impairment to you?

21 A. Yes.

22 Q. And when you say mental impairment or
23 physical impairment, do you mean observations
24 about their physicality that cause you to think
25 that they may be impaired?

1 A. Yes.

2 Q. Have you ever arrested anybody for DUI?

3 A. Yes.

4 Q. Is the touchstone of a DUI impairment?

5 A. Yes.

6 Q. Is the touchstone of a DUI physical
7 impairment?

8 A. Yes.

9 Q. Mental impairment?

10 A. Yes.

11 Q. What about somebody high on drugs, PCP,
12 heroin, cocaine, would they exhibit for you any
13 physicality or mental affect that might cause you
14 to think they may be impaired in some way?

15 A. Yes.

16 Q. Can you tell the difference between
17 someone who's impaired, let's say, from a
18 diabetic coma or a diabetic medical situation?
19 Can you look at that person and tell that person
20 is impaired by a diabetic situation as opposed to
21 a alcohol-related situation?

22 A. No.

23 Q. In terms of getting that person off the
24 road and getting control over them, does it
25 matter whether their impairment is a result of a

1 diabetic situation or an alcohol situation?

2 A. No.

3 Q. Does it matter if their impairment is a
4 result of a mental situation or a medical or
5 metabolic situation?

6 A. No.

7 Q. What's your job?

8 A. Making sure everybody's safe.

9 Q. With regard to Exhibit 17 -- let's look
10 at that real quick. This is the incident recall
11 sheet.

12 And I thought you told Mr. Gerhardstein
13 that not necessarily everything that's on the MDC
14 would appear on this recall sheet; is that what
15 you said?

16 A. Correct.

17 Q. When you say MDC, you mean your in-car
18 computer?

19 A. Yes.

20 Q. And then Mr. Gerhardstein and I had a
21 little disagreement.

22 But -- but let me ask you this.

23 It says here that you went on scene
24 at -- or at least it records on scene -- that you
25 commented to dispatch that you went on -- that

1 you went on scene at 2:50.

2 A. Yes.

3 Q. Is that -- would that reflect when you
4 told dispatch you were on scene?

5 A. What, when I -- it could.

6 Q. Okay. So when you key dispatch and
7 say, I'm on scene, would -- would that reflect
8 the 2:50? Is that the time that they would
9 record, or do you know?

10 A. I don't know if that's exactly the
11 time. It's whenever they enter it in the
12 computer.

13 Q. Okay. When do you typically say on
14 scene, in terms of if you're getting to wherever
15 you're dispatched to go to?

16 A. Typically, I say it before I actually
17 arrive on scene.

18 Q. And why is that?

19 A. Just in case there is a scenario where
20 I need to jump out or get out of a car, there's
21 a -- you know, a bad situation I roll up to.

22 Dispatch already knows I'm there,
23 instead of me screaming for help and they don't
24 know where I am because they don't -- I'm not on
25 scene yet.

1 Q. Okay. So is that an officer safety
2 consideration for you?

3 A. It is.

4 Q. So you want communications to know
5 you're at that location in case some -- in case
6 you need help and you just start screaming,
7 something bad happens?

8 A. Correct.

9 Q. Now, do you remember when you radioed
10 dispatch to tell them you were on scene with --
11 with regard to the Roell incident?

12 Do you have an independent recollection
13 of that?

14 A. I do not.

15 Q. Okay. And with regard to this 2:50, it
16 looks like, on scene -- and then at 2:55 there's
17 an entry here on Exhibit 17, one in custody,
18 request units continue; is that correct?

19 A. Yes.

20 Q. Now, from 2:50 to 2:55 is five minutes;
21 you'd agree with me?

22 A. Yes.

23 Q. But I think you responded to
24 Mr. Gerhardstein, you don't know, do you, in
25 terms of this 2:50, whether that was seconds

1 right before 2:50 or if that 2:50 was closer to
2 2:51 in terms of seconds, do you?

3 A. No, I don't.

4 Q. So am I correct that this could be as
5 much as five minutes or as little as three
6 minutes --

7 A. Yes.

8 Q. -- between what looks like you were on
9 scene and you had Mr. Roell in custody?

10 A. Yes.

11 Q. Now, when you had Mr. Roell in custody,
12 was he under control?

13 A. No. He was still actively being
14 combative while in custody.

15 Q. Okay. Now, you had a conversation with
16 Mr. Gerhardstein about calling EMS and a
17 conversation about this entry, 2:57, request EMS.

18 I can't remember, did you request EMS?
19 I guess you did. This is your call letter,
20 right?

21 A. 9 Paul 31, that would be Willy Dalid.

22 Q. Oh, that's Willy. Okay. I'm sorry. I
23 forgot that.

24 And I think you told Mr. Gerhardstein
25 that you were -- you don't recall when that

1 happened. You weren't -- you don't know if you
2 were present or if -- you heard it on the radio,
3 but you don't know it --

4 A. I don't remember if I was actually
5 there or if I heard it on the radio.

6 Q. Okay.

7 A. I remember hearing it.

8 Q. And it looks like at 2:58 a fire unit
9 was dispatched; is that right?

10 A. Medic 93, yes.

11 Q. And then it looks like at -- at least
12 2:59 here, Officer Gilliland arrived?

13 A. Correct.

14 Q. You don't know if that's closer to 3:00
15 or closer to 2:59 in terms of seconds, right?

16 A. I do not.

17 Q. And then Officer Sewall and Steers seem
18 to arrive -- at least put themselves on scene, I
19 should say -- at -- at 3:00?

20 A. Correct.

21 Q. Now, what does 35 mean?

22 A. 35 means you're on scene, but you're
23 still available --

24 Q. Oh, okay.

25 A. -- for dispatch.

1 Q. Oh, okay.

2 You don't know, do you, where -- when
3 these three officers put themselves on scene,
4 where they physically were located?

5 A. I do not.

6 Q. Do you have any sense of how much time
7 elapsed from the time Mr. Roell stopped the last
8 combative behavior and went into that lull or
9 rest where you believe he lost cardiac function?

10 Do you recall how long of a time frame
11 that was before Steers arrived and began CPR?

12 Do you have a sense of that?

13 A. It was the very fast. I'm not -- a
14 minute, maybe. It seemed like it was pretty
15 quick.

16 Q. Okay. You weren't timing it?

17 A. No.

18 Q. Did you call for officers need
19 assistance?

20 A. I did.

21 Q. And what's that call mean?

22 A. It means send more cars fast.

23 Q. And why do you do that?

24 A. Because there is a situation where
25 it's -- you're out of control or fighting, and an

1 officer is in a bad situation, and that officer
2 needs more units to help control the situation.

3 Q. And is that an officer safety
4 situation?

5 A. Yes.

6 Q. Did -- were you three able, though, to
7 get control of Mr. Roell?

8 A. We did eventually get him cuffed.

9 Q. And, again, it looks from this detail
10 incident recall that that could have been as much
11 as five minutes or as little as three minutes you
12 were able to do that in your encounter with
13 him --

14 A. Correct.

15 Q. -- is that right?

16 A. Correct.

17 Q. Let's look at Exhibit 2. This is the
18 excited delirium training. Let's look at
19 Bates 4489. That's that number down there in the
20 corner.

21 So you and Mr. Gerhardstein discussed
22 these symptoms that would have been identified in
23 this roll call training as symptoms of excited
24 delirium, right?

25 A. Yes.

1 Q. Okay. So is -- aggressiveness, is that
2 a symptom exclusively of excited delirium?

3 A. Exclusively? No.

4 Q. Combativeness, is that a symptom
5 exclusively of excited delirium?

6 A. No.

7 Q. Hyperactivity, is that a symptom
8 exclusively of excited delirium?

9 A. No.

10 Q. The combination of aggressiveness,
11 combativeness, and hyperactivity, is that a
12 symptom exclusive of excited delirium?

13 A. No.

14 Q. Extreme paranoia.

15 Were you able to determine whether or
16 not Mr. Roell was extremely paranoid?

17 A. No.

18 Q. Unexpected strength.

19 Is unexpected strength a symptom
20 exclusively of excited delirium in your
21 experience?

22 A. No.

23 Q. Is the combination of aggressiveness,
24 combativeness, hyperactivity, and unexpected
25 strength -- is that combination exclusively a

1 symptom of excited delirium in your law
2 enforcement experience?

3 A. No.

4 Q. Incoherent shouting, is that a symptom
5 exclusive of excited delirium?

6 A. No.

7 Q. Is the combination of aggressiveness,
8 combativeness, hyperactivity, unexpected
9 strength, and incoherent shouting -- is that
10 combination a symptom exclusively of excited
11 delirium in your experience?

12 A. No.

13 Q. Shedding of clothes is a weird one,
14 right?

15 A. It is.

16 Q. Have you ever been in an encounter
17 where someone approached you with less than all
18 of their clothes on?

19 A. In the jail, yeah --

20 Q. And --

21 A. -- or, I've been -- and from the
22 public, as well.

23 Q. Yeah?

24 A. Yeah.

25 Q. Have those people been experiencing

1 excited delirium, to your knowledge?

2 A. No.

3 Q. Were they drunk?

4 A. Possibly.

5 Q. But what -- do you know what was wrong
6 with them?

7 A. No.

8 Q. They just didn't have all their clothes
9 on?

10 A. Right.

11 Q. Okay. So how many --

12 A. I had to investigate it first to find
13 out.

14 Q. Okay. When you investigated why they
15 didn't have their clothes on, were you able to
16 determine why they didn't have their clothes on?
17 Maybe their wife threw them out in the
18 middle of the night. I don't know.

19 A. Not right away.

20 Q. No, what were some of the reason they
21 didn't have all their clothes on?

22 A. Intoxicated, high, I mean -- the one I
23 came in chronic encounter with was very
24 intoxicated.

25 Q. Okay. So the shedding of clothes, in

1 your experience, is that a symptom exclusively of
2 excited delirium?

3 A. No.

4 Q. Would the combination of
5 aggressiveness, combativeness, hyperactivity,
6 unexpected strength, incoherent shouting, and a
7 lack of clothes -- would those be -- would that
8 combination of be a symptom of excited delirium,
9 exclusively, in your law enforcement experience?

10 A. No.

11 Q. What would those things also indicate
12 to you, either individually or collectively or in
13 some combination of them?

14 What types of things would they
15 indicate to you?

16 A. Intoxicated, high on drugs. Those are
17 my first -- main two that I would be worried
18 about.

19 Q. And if that subject presents a threat
20 to you, is the tactical -- is the tactical
21 response to get the subject under control?

22 A. Yes.

23 Q. And then what do you determine?

24 A. Determine what's wrong with them after
25 that.

1 Q. Is that what you did with regard to
2 the Mr. Roell Situation --

3 A. Yeah.

4 Q. -- or attempted to do, I should say.

5 A. Yes.

6 Q. Was it your belief that disengaging
7 with Mr. Roell at the time Mr. Gerhardstein has
8 suggested, that it would be an option, when you
9 went back into that gated patio -- is it your
10 opinion as a law enforcement professional, that
11 that was an option for you?

12 A. No.

13 Q. Why not?

14 A. Because there was a potential for him
15 to get ahold of more weapons inside the patio
16 area where he can harm himself or others.

17 Q. Mr. Gerhardstein pointed out to you a
18 couple different areas in your training where
19 it's suggested that persuasion is the more, I
20 guess, appropriate technique, if it's practical
21 or it's available to you.

22 Do you agree with that concept?

23 A. If it's practical, yes.

24 Q. And do you ascribe to that? Do you
25 attempt to do that?

1 A. Absolutely.

2 Q. Were you able to do that, in your
3 opinion, with regard to Mr. Roell?

4 A. No.

5 Q. Have you ever been in a SWAT
6 call-out?

7 A. No.

8 Q. Have you ever been in a hostage
9 situation?

10 A. No.

11 Q. Are you familiar with -- is there
12 sheriff's protocol for a SWAT situation or a
13 hostage situation?

14 A. Is there a what? I'm sorry.

15 Q. A protocol.

16 A. I believe so.

17 Q. And in certain SWAT situations, is
18 there an ability to -- to use some techniques
19 that you don't have in a rapidly-evolving
20 encounter with a subject?

21 A. Yes.

22 Q. What would they be?

23 A. I mean, you have more options to sit
24 there and plan and get a plan together while
25 you're evaluating the threat and engage in the

<http://www.yeslaw.net/help>

1 necessary plan that you had planned.

2 Q. Did you have that the opportunity with
3 regard to your interaction with Mr. Roell?

4 A. No.

5 Q. Mr. Gerhardstein asked you several
6 different times with regard to a few different
7 variables, if certain things would be, quote,
8 helpful, closed quote, for you.

9 I'm not certain what he was intimating
10 about those questions. But it occurred to me
11 that there might be a suggestion that, had you
12 had other information that night, that you would
13 have done something different with regard to
14 taking subject control of Mr. Roell.

15 Would --

16 A. I would have not have done anything
17 different.

18 Q. So let's say that, for example, you had
19 even been to the Roell home on a prior occasion.

20 Let's say that Mrs. Role had called you
21 on a prior occasion to take her husband to the
22 hospital. Okay?

23 A. Okay.

24 Q. And let's say that you responded. And
25 you were able to speak with Mr. Roell, and you

1 were able to pink-slip him, and you took him to
2 the hospital. Okay?

3 A. Okay.

4 Q. So let's say -- can you -- can you --

5 A. I'm following you.

6 Q. -- roll with me on that? Are you with
7 me on that?

8 All right. So let's say you get to the
9 house that night and you know it's Mr. Roell.

10 Now you know what?

11 A. I've --

12 Q. You've pink-slipped before, right?

13 A. Yeah, right.

14 Q. So what do you know?

15 A. That I've pink slipped him before, that
16 he possibly has some kind of medically -- medical
17 disorder.

18 Q. Okay. And so you run around the corner
19 with Deputy Huddleston, and you say, hey, Gary,
20 what's going on?

21 And he turns around and comes at you.
22 Would absolutely anything be different?

23 A. No.

24 Q. I'm assuming from my hypothetical that
25 Mr. Roell does exactly the same thing that he did

1 that night, despite the fact that you called him
2 Gary and, you know, you recognized him.

3 Okay. So you would not do anything --
4 nothing would be different from your
5 perspective?

6 A. No.

7 Q. How did you feel?

8 A. I felt threatened.

9 Q. How did you feel when Mr. Roell passed
10 away?

11 A. It was sad. I mean, I -- we don't want
12 anybody to die. That's -- that's not our
13 objective here. That's not what we're out here
14 doing.

15 Q. Did it -- did it cause you -- I've read
16 you were described as shaken up. Were you shaken
17 up by that?

18 A. I was.

19 Q. Was that the first time that you'd been
20 involved in -- in someone dying in a situation in
21 which you've been involved?

22 A. On duty? Yes.

23 Q. Yes.

24 A. Yes.

25 Q. And did it bother you?

1 A. It did.

2 Q. And have you had occasion, since the
3 incident, to play it back in your head and maybe
4 second-guess yourself?

5 A. I wouldn't say second-guess myself. I
6 mean, like I said, I wish it would have ended
7 differently. But, unfortunately, it didn't.

8 MS. SEARS: Can I have just a minute?

9 THE VIDEOGRAPHER: We are off the
10 record at 1:17 p.m.

11 (Off the record.)

12 THE VIDEOGRAPHER: We are back on the
13 record at 1:24 p.m.

14 BY MS. SEARS:

15 Q. Thank you. Could I ask you to look at
16 Exhibit 16? That is, again, the transcript of
17 your interview after the incident that
18 Mr. Gerhardstein showed you. And can I draw your
19 attention to page 34, please?

20 Are you at 34?

21 A. I am.

22 Q. Would you read the page just silently
23 to yourself, please? Please let me know when
24 you're done.

25 A. Okay.

1 Q. On page 34, in response to the
2 detective's question -- he asks you, At any
3 point, did he stop fighting.

4 And you -- you said, It took a while.

5 What do you mean, it took a while?
6 What were you referencing there, if you recall?

7 A. Just from the time that he initially
8 came at us to -- the struggle began.

9 Q. And when you said, it took a while,
10 what did you mean, the fighting?

11 A. Correct, the -- the fighting.

12 Q. We kept making comments and told him to
13 relax, we've got help on the way, just relax,
14 we've got help on the way. I just kept telling
15 him to relax.

16 And what kind of -- tone of voice were
17 you using when you were telling him to relax?

18 A. I was calm, very low-key.

19 Q. Okay. You weren't saying, relax,
20 relax, everybody's good, relax, the help's on the
21 way?

22 A. No.

23 Q. Were you telling at him?

24 A. No.

25 Q. Did you have your hand on him?

1 A. I did.

2 Q. Where was your hand?

3 A. I think on his shoulders, shoulder
4 area, upper body.

5 Q. And were you controlling him with your
6 hand, or were you just resting your hand?

7 How was your hand?

8 A. Well, when he was -- when he would be
9 combative, when he was -- you know, I would
10 control. And then we wouldn't, I would ease up
11 and kind of rest my hand on him.

12 Q. Okay. As he would become combative,
13 you would increase the pressure of your hand on
14 him?

15 A. Pretty much, just -- yeah.

16 Q. Did you ever hit him?

17 A. No.

18 Q. Did you ever hit him with any -- did
19 you ever use -- was there ever any intermediate
20 force, other than the Taser, used in this
21 incident, to your knowledge?

22 A. No.

23 Q. And then when he would relax, you would
24 relax your hand, right?

25 A. Correct.

1 Q. Now, when he became combative, did you
2 yell and scream at him at that point?

3 A. I don't -- I don't recall that. I
4 don't believe so.

5 Q. Would there --

6 MR. GERHARDSTEIN: You're talking about
7 after the cuffing?

8 MS. SEARS: Yes. I'm sorry. That was
9 a terrible question. I apologize.

10 BY MS. SEARS:

11 Q. I'm talking about after -- after the
12 cuffing, when he was going through those spurts
13 of combativeness and calmness that you described
14 for Mr. Gerhardstein.

15 That's -- that's the time I'm talking
16 about.

17 A. Okay.

18 Q. Were you yelling at him during those
19 times of combativeness --

20 A. I don't believe so.

21 Q. -- combativeness?

22 And then -- and then he made more of
23 these comments about water, that you've talked
24 about with Mr. Gerhardstein, kept talking about
25 their house being dry.

1 He was still screaming. He was
2 screaming at all of us. He was screaming.

3 Were you screaming back at him?

4 A. No.

5 Q. It says, so we were just waiting for
6 the squad, just kept telling him to relax, relax.

7 Is that that -- so how -- what was your
8 tone of voice with him then?

9 A. Low-key.

10 Q. And what were you trying to accomplish
11 there?

12 A. Just trying to get him to understand to
13 relax, help's on the way.

14 Q. Did you make a plan with
15 Deputy Huddleston and Deputy Dalid that you would
16 talk in that tone of voice to Mr. Roell?

17 A. No.

18 Q. Were you trying to reassure him or just
19 trying to calm him down or --

20 A. Mr. Roell?

21 Q. Yeah.

22 A. Yes.

23 MS. SEARS: Nothing further, Al.

24 FURTHER EXAMINATION

25 BY MR. GERHARDSTEIN:

1 Q. Deputy, take a look at Exhibit 17.

2 A. Okay.

3 Q. Can you identify for me where you made
4 the call for officer needs assistance?

5 A. I don't see it on here.

6 Q. Given what you do see on here, can you
7 tell me where it would fit?

8 A. It would probably fit before 2:54, when
9 9 Sam 33 was en route.

10 Q. Before 2:54, when 9 Sam 33, and after
11 it says, Huddleston on scene; so somewhere
12 between 2:50 and 2:54?

13 A. 9 Paul 32, 27, yes.

14 Q. Yes.

15 A. Yes.

16 Q. And were you broadcasting on this
17 frequency?

18 A. On the east? Yes.

19 Q. So if you made the call for officer
20 needs assistance, it should be on here, right?

21 A. I would think so.

22 Q. But you recall making that?

23 A. I do recall requesting more units.

24 Q. And why do you place it where you do,
25 between 2:50 and 2:54?

1 A. Because, initially, 9 Sam 32 got
2 disregarded by Deputy Huddleston.

3 And then, when he goes en route, is
4 whenever he was en route once I called for more
5 units.

6 Q. You mean by Corporal Steers?

7 A. Correct, and all these other three
8 officers all were responding -- four officers
9 that were responding all at the same time.

10 Q. So before you had Mr. Roell in custody
11 and in cuffs, you made the call for officer needs
12 assistance?

13 A. Correct.

14 Q. And in order to do that, you had to
15 press a button on the radio and say, what,
16 officer needs assistance?

17 A. I think I yelled, send cars.

18 Q. Send cars? All right.

19 And that was in order to enhance
20 officer safety, correct?

21 A. Correct.

22 Q. Okay. Now, an identical amount of
23 energy would have to be used in order to call for
24 EMS to come to the scene, right?

25 A. Correct.

1 Q. And when you looked at Exhibit 2 -- and
2 you may want to pull that out again, it's in the
3 book -- at page 4489, you went through all these
4 symptoms and said, they could be something else,
5 right?

6 A. Correct.

7 Q. But all these symptoms -- you've been
8 trained to recognize that all these symptoms
9 support an inference of excited delirium, as
10 well, right?

11 A. An inference, correct.

12 Q. Okay. And so, based on that inference,
13 it's totally appropriate to take a safeguard and
14 bring EMS close to the scene, right?

15 A. When -- if the time allowed, correct.

16 Q. Right. Well, you had as much time to
17 call for officers as you had to call for EMS?

18 A. Officer safety, yes.

19 Q. Okay. So the whole point of training
20 on excited delirium is that it's so dangerous,
21 right? Because the -- because the suspect can
22 die within minutes of the -- of the altercation
23 being over with, right?

24 MS. SEARS: Objection.

25 BY MR. GERHARDSTEIN:

1 Q. Isn't that correct?

2 A. That it is the potential ending, it
3 could result in death.

4 Q. Right. So that's why you have special
5 training on it, right?

6 A. Correct.

7 Q. And that's why it's important to have
8 EMS available, because the critical time is right
9 when he's been restrained, right?

10 A. When it's applicable, yes.

11 Q. And in this instance, Mr. Roell's
12 symptoms may have been consistent with some other
13 things, but were also consistent with excited
14 delirium, right?

15 A. It was one of them, yes.

16 Q. Okay. And there was no call for EMS
17 until after Mr. Roell was already in custody --

18 MS. SEARS: Objection.

19 BY MR. GERHARDSTEIN:

20 Q. -- is that right?

21 THE WITNESS: Asked and answered.

22 A. When he was -- when the scene was safe
23 and he was in custody, the squad was called.

24 BY MR. GERHARDSTEIN:

25 Q. And all you had to do in order to

<http://www.rylaw.net/help>

1 advance their presence on the scene was make a
2 call similar to the one you did for officer needs
3 assistant --

4 MS. SEARS: Objection.

5 BY MR. GERHARDSTEIN:

6 Q. -- right?

7 MS. SEARS: Objection as to all.

8 BY MR. GERHARDSTEIN:

9 Q. Is that right?

10 MS. SEARS: You can answer the
11 question.

12 BY MR. GERHARDSTEIN:

13 Q. Is that right?

14 A. By pushing the button, and -- yes.

15 Q. Okay. You were asked about what might
16 have happened if you had used his name.

17 Do you recall those questions?

18 A. At the ending, yes.

19 Q. Well, and also when you first
20 encountered him, if you had said something like,
21 hey, Gary, what's going on?

22 A. I thought you meant the timing of the
23 question. I'm sorry.

24 Q. And you do know that sometimes when a
25 person is addressed by their actual name, it

1 helps establish rapport, right?

2 A. It could.

3 Q. So you have no idea what would have
4 happened if you had started this encounter by
5 using his name?

6 A. I don't.

7 MR. GERHARDSTEIN: Okay. Got anything
8 else or any other questions?

9 MS. SEARS: I just have a couple
10 things.

11 FURTHER EXAMINATION

12 BY MS. SEARS:

13 Q. How many cases of excited delirium have
14 you had?

15 A. Zero -- one.

16 Q. One?

17 A. This one.

18 Q. How many cases of somebody being drunk
19 or high exhibiting these symptoms have you had?

20 A. Several.

21 Q. Did you have any of those things in the
22 jail, I mean, just people being out of control,
23 hyperactive, that sort of thing?

24 A. I worked in intake, so we got some of
25 the drunks come in and --

1 Q. Okay. Several, my mom always taught
2 me, means seven. I don't know what other people
3 think several means. But when somebody says
4 several, my mom's voice says seven.

5 A. So how many intoxicated people, on
6 drugs have I encountered in my career?

7 Q. That exhibited those symptoms there,
8 yeah. How -- seven?

9 A. More than that. More than that.

10 Q. How many more? Can you even tell me?

11 A. I couldn't tell you.

12 Q. When you arrive --

13 A. It's a lot.

14 Q. When you arrive on a scene and someone
15 with those symptoms that are in Exhibit 2 --
16 what's the Bates number at the bottom?

17 A. 4489.

18 Q. With the exception of the paranoia,
19 okay, those symptoms or some combination of those
20 symptoms, in your experience as a law enforcement
21 officer, would you perceive that to be someone
22 that's drunk or high, would you -- or even
23 mentally ill, or someone having an excited
24 delirium episode?

25 A. It would be one of the three: drunk,

1 high, or mentally ill.

2 Q. What about excited delirium? Is that
3 the first thing that comes to your mind?

4 A. No. But it could be.

5 Q. And now that you've experienced a
6 situation of excited delirium, it's sort of in
7 your -- in your mind that that's an option for --

8 A. It still could be an option still at
9 that point; so could the other ones.

10 Q. And in your training regarding excited
11 delirium, were you ever taught -- taught that
12 people experiencing excited delirium absolutely
13 do not respond to deescalation?

14 A. No.

15 Q. Were you ever taught that?

16 A. No.

17 MS. SEARS: Okay. No further
18 questions.

19 MR. GERHARDSTEIN: I don't have
20 anything else.

21 MS. SEARS: Me either. Thank you.

22 MR. GERHARDSTEIN: Thank you.

23 MS. SEARS: So we're back when --

24 MR. GERHARDSTEIN: Instruction.

25 MS. SEARS: Oh, yes, the instructions.

<http://www.yclaw.net/help>

1 I always want to leave in a hurry.

2 THE VIDEOGRAPHER: Mr. Alexander, you
3 have the option to read and sign your
4 transcript. Would you like to read and
5 sign, or would you like to waive that right?

6 MS. SEARS: He'll read and sign it.

7 THE VIDEOGRAPHER: Okay. You also have
8 the right to view the video before the court
9 or jury views it.

10 Would you like to view that, or would
11 you like to waive that right?

12 MS. SEARS: We'll view it.

13 THE VIDEOGRAPHER: We are off the record
14 at 1:36.

15

16


DEPUTY MATTHEW ALEXANDER

17

18

19

DEPOSITION ADJOURNED AT 1:36 P.M.

20

21

22

23

24

25

1 C E R T I F I C A T E

2

3 STATE OF OHIO :
4 : SS
5 COUNTY OF HAMILTON :

6 I, Wendy Haehnle, the undersigned, a
7 duly qualified and commissioned notary public
8 within and for the State of Ohio, do certify that
9 before the giving of his deposition, DEPUTY
10 MATTHEW ALEXANDER was by me first duly sworn to
11 depose the truth, the whole truth and nothing but
12 the truth; that the foregoing is the deposition
13 given at said time and place by DEPUTY MATTHEW
14 ALEXANDER; that I am neither a relative of nor
15 employee of any of the parties or their counsel,
16 and have no interest whatever in the result of
17 the action.

18 IN WITNESS WHEREOF, I hereunto set my hand
19 and official seal of office at Cincinnati, Ohio,
20 this 16th day of June 2015.

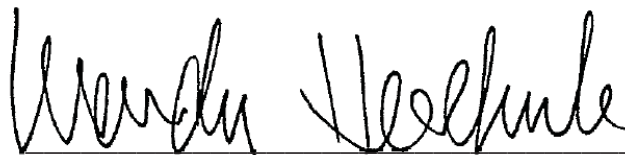
21

22

23

24

25



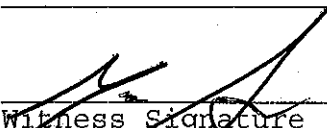
Wendy Haehnle
Notary Public - State of Ohio
My commission expires September 3, 2017

1 E R R A T A S H E E T

2 DEPOSITION OF: DEPUTY MATTHEW ALEXANDER
3 TAKEN: JUNE 5, 2015

4 Please make the following corrections to my
5 deposition transcript:

6	Page	Line Number	Correction Made
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

Witness Signature  Date 7/6/2015